



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, April 10, 2023 - 7:00 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, and Marjorie Blom.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Regular Session Meeting Minutes of March 27, 2023.

[Draft PC Reg Session Minutes 03-27-2023](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A File No. 1-CUP-23 / 1-ADJ-23 Final Order and Findings of Fact: Conditional Use Permit and Adjustment to Build a Three Story 47 Room Hotel and 2,626 SF of Ground Floor Commercial on Bay Blvd.

[Final Order](#)

[Findings of Fact](#)

4.B File No. 1-NCU-23 Final Order and Findings of Fact: Nonconforming Use Permit to Build a 9-ft Diameter 40-ft Tall Enclosed Flare at the NW Natural LNG Plant.

[Final Order](#)

[Findings of Fact](#)

4.C File No. 1-SUB-23 / 1-VAR-23 / 2-GP-23 Final Order and Findings of Fact: Fisherman's Wharf Tentative 11 Lot Subdivision Plat, Variance, and Geologic Permit.

[Final Order](#)

[Findings of Fact](#)

5. PUBLIC HEARINGS

5.A File No. 2-CUP-23: Application by South Beach Church for a Conditional Use Permit to Build a 19,895 Sq. Ft. Church and 50 Student Private School.

[Staff Report](#)

[Attachment A - Application Form](#)

[Attachment B - Lincoln County Assessor Property Record Card](#)

[Attachment C - Lincoln County Assessor Map](#)

[Attachment D - Applicant's Business Plan](#)

Attachment E - Applicant's Narrative
Attachment F - Acoustic Recommendations, Team Wilson Media, dated 2/2/23
Attachment G - Trip Assessment Letter, Civil West Engineering, dated 3/8/23
Attachment H - Figure 1: Existing Conditions Map, Civil West, dated Feb. 2023
Attachment I - Figure 2: Site Plan, Civil West, dated Feb. 2023
Attachment J - Exterior Building Elevations, by Capri Architecture
Attachment K - Building Entry Rendering, by Capri Architecture
Attachment L - Building Floorplan, by Capri Architecture
Attachment M - Building Sign Concepts, by Capri Architecture
Attachment N - City Terrain and Utility Map
Attachment O - Public Comments
Attachment P - Public Hearing Notice
Additional Public Comments
Revised Entry Rendering - Capri Architecture 4-7-2023
Bonnie Serkin, Landwaves Public Comment 4-7-2023
Dustin Capri Response to Bonnie Serkin Comments 4-7-2023
Bonnie Serkin Request for Hearing Continuance 4-7-2023
Updated Site Working Drawing - 4-10-23
Additional Public Comments 4-10-23
Al and Jill OBright Public Testimony - Received In Person at 4-10-23 Hearing

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
March 27, 2023

Planning Commissioners Present: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, and Marjorie Blom.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Branigan, Berman, Hanselman, East, Escobar, Updike, and Blom were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of March 13, 2023.**

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Regular Session meeting minutes of March 13, 2023 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.** None were heard.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 7:02 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioners Blom, Escobar, Branigan, Updike, Hanselman, East, and Berman reported site visits. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File No. 1-CUP-23 / 1-ADJ-23 (Continuation): Conditional Use Permit and Adjustment to Build a Three Story 47 Room Hotel and 2,626 SF of Ground Floor Commercial on Bay Blvd.**

Tokos acknowledged the additional public testimony received. He noted that the applicant's representative, Denny Han provided answers to questions the Commission had from the last meeting. This included confirming that the roof appurtenances didn't exceed the 200 square feet or were above the 30 foot height limitation; the location of the pet accommodations would be in the area between the 6-foot wall and retaining wall; the Oregon Structural Specialty Code triggered the number of ADA required spaces to be based on the amount of off-street parking they were providing; the room sizes were added to floor plans; areas where the EV charging stations could be accommodated; confirming the staffing; and provided three parking layouts. Tokos reviewed images of each of the three parking layout options. He thought it was important to note that if the Apollo's building had not been demolished, they would meet the parking credit that they were be entitled to, meaning they wouldn't need to seek an adjustment to the parking standards. The only reason they were seeking the adjustment was because the building had been removed and the use

had ceased. Tokos explained that in the Bayfront area, some portion of their parking could be addressed through on-street parking areas. There were a number of commercial uses in the Bayfront area that didn't provided off-street parking and relied on the on-street parking supply. Tokos thought a reasonable way to approach this was to compare it to the previous use of the property and ask if it further exacerbated parking conditions relative to what that last development was. The previous use had a demand for 49 spaces. They provided 20 off-street parking spaces and 29 were on-street. This meant the previous use addressed 40 percent of the their parking off-street and 60 percent on-street. Tokos pointed out this request was different because they were relying on 19-20 on-street spaces which meant that 70 percent of their demand would be met off-street, and 30 percent on-street.

Tokos thought the adjustment was positive because it gave additional landscaping and sidewalk space for seating along Bay Boulevard. He thought the biggest issue was the six to eight foot tall wall. There were concerns that this wasn't ideal and it would be challenging to address the existing retaining wall, which was the responsibility of the Condo Association. The condition on the staff report would authorize the construction of the wall or give an alternative to say they would work with the Condo Association to reinforce the existing wall so they wouldn't create a narrow corridor between two walls. Tokos thought this was a reasonable approach. It would be defensible to say they wanted to see a six to eight foot tall wall in the configuration, but it wasn't reasonable to try to require cooperation between the parties.

Escobar noted there was a letter they received from the applicant that outlined an adjustment to the request. He asked if this meant the scope of the adjustment had been minimized or if it was the same. Tokos noted the adjustment to the 10 feet yard buffer was the same. They provided option to negate the need for the 40 percent adjustment for compact versus standard parking spaces. The parking adjustment was similar to the compact situation and would now be 44 stalls, which was well above what was provided and what the demand was from the previous development.

Applicant: Denny Han addressed the Commission. He noted that on line item 7 they had put more thought and research into compact versus standard parking. Based on the studies they gathered from the Nye Beach Hotel, they identified that 50 percent of their guests were couples and the mix of guests at the new Hotel Abbey would very likely be the same. Han also noted that a statewide survey for Oregon showed that SUVs made up 41 percent of all vehicles in Oregon. Given that SUVs were a range of smaller to larger types of vehicles, the mix of compact and larger stalls they were providing would work for these vehicle at the new hotel. Han reminded that the hotel would communicate with the guests to tell them about parking before they arrived. He also reported that they had a desire to work with the Condo Association to come up with a plan for the concerns about the back area. They would add cameras in the back area for security and didn't see it being a concern.

Berman noted that Han had said that 50 percent of guests were couples and asked what the other groups were made up of. Han explained they were a combination of singles or families. Berman asked if it was true they were going to use the area between the wall and old retaining wall as the pet area. Han reported this was the desired area. They would have more considerations for this after they talked with the Condo Association. If they repaired the retaining wall they would have to come up with a different area. Berman asked if this area would be lighted and have trash cans and dog bags. Han explained it would have everything needed for pet accommodations.

Udike pointed out there weren't elevation drawings for the revised roof top plan for HVAC equipment. He asked what the equipment would look like and how it would be screened for view and noise. Han reported this equipment would be split for the hotel and commercial spaces. There

would be two smaller sized units. There shouldn't be any concerns for the visuals because the units wouldn't be too tall. The area that wasn't the roof deck would be sloped and the units would be positioned in the center of the hotel where the corridors were. This would be ideal locations for them because it would be the lowest points of the roof. Han explained most of this would be covered by the parapet wall. Han thought they could put up extra measures for panels to help with the sound. The units didn't make too much noise because their tops were open. Han noted they could do studies on this as well.

Branigan asked if they would allow guests to visit the roof. Han explained this hadn't changed and they wanted to have a roof top deck. Branigan asked about the fencing for the roof top deck for safety. Han explained they would have railings. Sometimes this would be a fence and other times it would landscaping. He thought it would likely be a combination of both. Branigan asked if this met the safety standards. Han believed the parapet would meet the safety standards and pointed out they wouldn't allow people to go right up to the edge of the building. Branigan asked if they would limit the number of people on the roof deck. Han reported they would look at measures to limit guests. There would be a occupancy load and it would be treated the same as any other hotel.

Proponents: Diana Steinman addressed the Commission and reported that she represented VIP Hospitality Group. She was in support of the project and was in attendance to answer questions concerning guests and services. Their goal was to be a positive community member. Steinman noted that all of their employees were local and they liked to purchase products locally.

Berman asked what the number of staff would be, what their hours would be, and where they would park. Steinman reported it would be a 24 hour establishment with employees on staff at all times. She guessed that during the busy season there would be 7 to 10 employees. Steinman explained that 20 to 30 percent of the employees took public transportation to work. During the off season the staff would park in the hotel lot. When they were at full occupancy the majority of staff would either carpool or take public transportation. Steinman noted that VIP Hospitality talked about a shuttle service between hotels for staff. East asked what their average occupancy was in the peak season. Steinman reported that weekends had over a 90 percent occupancy. In July, August and September it was closer to 80 to 100 percent occupancy.

Opponents: Darla Sweeter addressed the Commission. She stated she represented her parents who owned a condo above the subject property. Sweeter shared comments that she had heard since the first hearing which included concerns about crowds, added noise, loss of view, and the addition to condo owners views. She didn't think the Inn at Nye Beach was comparable to this location. Sweeter also noted that there had been negative comments on the Inn at Nye Beach's website about the parking being too close and how it was hard for vehicles to get in and out of the parking area. She pointed out that being a couple didn't mean that they wouldn't have a large vehicle. Sweeter also noted that the Inn at Nye Beach had a sign posted saying they were looking for staff and having staffing issues. She also wanted to know if they had an emergency plan because the hotel would be in a tsunami zone. She questioned what their plan was to move a large amount of people out of that area in an emergency.

Charlotte Boxer addressed the Commission. She stated she wasn't opposed to the hotel, she was opposed to the size of the hotel taking up the entire site. Boxer owned the adjacent property and 33 feet of her building was built an inch from the property line. She wanted to know how she would be able to maintain her building when they built up to the property line. Boxer asked if the facade of the building would be cinder block, cedar shingle, or lap siding. She noted that she had lived in the area and it was noisy. The fishing industry also had problems moving trucks in the area. Boxer wanted to see something anchor that area of the Bayfront because it had been a

homeless camp and a blight on the west end. She didn't think this site was the same as the Inn at Nye Beach. Boxer couldn't figure out who would want to rent the rooms that looked at the condo buildings. Berman asked if the old retaining wall went behind her building as well. Boxer explained that the Condo Association didn't own the entire retaining wall and it extended behind her building. She noted that she had put a large share of her life savings into her building and was concerned about how she would be able to maintain her building. Escobar asked if the new hotel would take out parking spaces for her building. Boxer explained she would be left with two small spaces on her end. She wasn't concerned about spaces but for the maintenance of her building and the traffic congestion.

Wendy Engler addressed the Commission. She requested that when big projects came along with conditional use permits that there be narrative included on how they furthered the city's Comprehensive Plan. In this case she wanted to see the documents related to the Bayfront such as the Peninsula Urban Design Plan, the Bayfront Plan, and the Vision 2040 be included to put this into a long range perspective. Engler stated she would have been in favor of this project if it had reduced parking demands. She was on the Nye Beach Parking Committee and thought the project was too big for the site. Engler requested that the lighting be addressed. She wanted all exterior lighting to be shielded and downward facing. Engler also asked that the sign not be an interior illuminated sign.

Beverly Smith addressed the Commission. She thought that the harbor was a special place and didn't want to see it ruined by something huge. Smith felt this wasn't a good spot for the hotel. She wanted to have the fishing industry emphasized and focused on instead.

Lynn Baker addressed the Commission. She reiterated that the area was a working bayfront. The area was congested and the fishing industry was moving equipment at all times. The hotel would need a new ingress/egress which meant that some of the parking spaces in front of the hotel would go away. Baker thought this would put more traffic in congested area. She wasn't sure what the public transportation option for staff would be. Baker was concerned there wouldn't be enough parking for staff and guests. The only parking would be on the condo's street.

Rebuttal: Steinman pointed out that half of the rooms at the Inn at Nye Beach faced east without views. There was a market for all types of views for travelers. Escobar reported that he often referred people to Inn at Nye Beach who appreciated the staff and ambiance. Han explained that in terms of finishes, they would likely have something consistent with the local architecture. This would likely be a combination of stucco and siding, not a concrete block wall. Han noted they took every effort to consider the local architectural vernacular. They appreciated the comment on lighting. They also didn't want the building to stick out like a sore thumb. Han noted the building would only have an 80 percent lot coverage and why they wanted to push the building back. They wanted the building to be attractive and create value to the overall experience of the Bayfront. The working harbor would be part of the draw for people to experience the local environment. Han reported that screened lighting would be incorporated and would be indirect and screened. The signage would not be illuminated and they would look at using up lights so there was no glare to the public.

Escobar asked for thoughts on the concerns about maintenance of the building. Han reported there were often areas that were built up to property lines, next to buildings. They would consider how to make this area as weather proof as possible. They also planned to have measures in place to keep it from collecting debris.

Udike noted the survey document referenced a building easement. He asked who benefitted from this easement and if it would be an impediment to the development. Han explained he would have to look at what the reference was. Typically when there was a building easement there was record of what it was. Han stated they would look into it and identify if it was an active easement. They would make sure to comply with all the easement requirements when applying for their building permits.

Branigan asked what the number of EV charging stations would be and where their locations were. Han reported there would be two spots in all three of the parking options. Berman noted that previous public testimony had complimented the applicant on their contributions to the community, and he wanted to thank them for that.

Chair Branigan closed the hearing at 8:05 p.m.

Udike was concerned that the development would be too much for the site. Relative to the departure from the codes, he thought they had addressed the issues. Udike was concerned that a deal couldn't be worked out with the Condo Association on the two separate walls and what the area was going to look like. He thought the applicant was talking about screening from the street. What he was concerned about was screening from the view from above. Udike thought this needed to be a part of the narrative when considering conditions. He wasn't convinced this was the right thing.

Blom agreed with Udike's concerns. She liked the option 2 parking best. She thought it sounded like the applicants would be willing to work with the neighboring property, except for the view of the neighbors. She questioned if the hotel would enhance the Bayfront. Blom noted she witnessed how both the Cannery Row in Monterey, and Eureka, California had once had working bayfronts that were now no longer there because of development. She didn't want to see development be a hindrance for fishermen.

Escobar acknowledged the comments that were heard about this area being working bayfront. If there was a conflict between commercial uses and fishermen, he would tend to lean toward the growth of the fishing industry. Escobar stated he felt the pain for all of the people in the condos, but noted the Commission had to consider what the applicants were requesting. If someone lived here long enough they would know they didn't go to the Bayfront in the summer because it was so busy. Escobar thought that if the applicant wasn't asking for a reduction in size of parking, and making it narrower, he wouldn't have any problems with the request. There was a problem with congestion and parking in the area. Escobar thought that as long as they were asking to reduce the number of parking spaces and the widths of each, he couldn't support this.

Hanselman had mixed feelings on project. He thought it was too big for the space. If the structure was built and the business failed you would be left with an interesting structure to deal with. This bothered him but noted it wasn't part of his decision making. Hanselman wished it was going to be built as apartments, not short-term rentals. He didn't think they needed more vacation rentals or resort rooms. Hanselman thought room taxes had to mostly be spent on tourism and not on the wear and tear on city. He acknowledged the comments received about generating more room taxes, but noted these funds were not spent on infrastructure, but on tourism. Hanselman questioned how efficient the six to eight foot wall would be if it was built. This would create a dead zone that would beg people to ignore it. Hanselman hoped they would work with the Condo Association to fix the retaining wall instead of building another wall. He stated he didn't have the same issue with the parking as the other Commissioners. The applicants would be doing more to park people for their business than any other business on the Bayfront. Hanselman had mixed feelings on this

project. The old Abby Hotel was monolithic and there for a long time. It was hard to say this hotel would be too large when there were large metal fish processing buildings next to it. Hanselman wasn't convinced how to vote on this.

Berman thought this was too big of a project and didn't believe the applicant had done all the steps necessary before submitting their application. There was no coordination with adjacent property owner, Charlotte Boxer, and there was no geologic report done. Berman thought the discussion with the Condo Association should have happened long ago. He thought without knowing the geologic status, there would be a good chance that the new wall wouldn't hold up. Berman's main problem was the parking. He thought the parking requirement was 43-44 and he counted 17 parking spaces short without counting parking for staff. There was a huge parking problem and people on 13th Street already couldn't find a spot to park in front of their houses. Berman thought this would make it worse. He encouraged the applicant to scale the project, do their due diligence, and come back with a plan that didn't require all the compromises they were asking for.

East agreed with Berman. They needed to work with the Condo Association because the retaining wall was failing and part of the area there was sinking. If the retaining wall failed the six foot wall wouldn't do any good. East thought they also needed to look at the property line separations to make sure they weren't interfering with another building as far maintenance and upkeep. He wanted to see a plan for a privacy screen on the deck so there wouldn't be groups on it that were making neighbors uncomfortable with privacy. East thought if they changed it to the parking plan 2 it would help. He thought that parking would be an issue whether they built this or not. They needed to address these issues before he would be comfortable with it.

Branigan had been worried about the parking on the Bayfront and Nye Beach over the years. In 2019 they went through long parking studies and found that nothing worked because of the geology for the Bayfront. Branigan noted they would be installing a meter system this year on the Bayfront. As part of this, employees would be able to get permits for parking. Branigan thought that nothing would be perfect. As far as the other concerns, he thought the retaining wall was an issue that really hadn't been addressed for repair. Branigan noted that there were also concerns with Charlotte Boxer repairing her building. He thought that for the most part the hotel addressed the parking issues. They were doing more for parking than anyone else on the Bayfront. Branigan thought the hotel company was a responsible company who would work diligently to resolve the various problems they had.

Tokos reminded there were parameters for what the Commission's actions had to be and they would need to relate to the approval criteria. If there was an issue they could address it with a condition, it couldn't be a basis for denial. For example, the applicant provided an option for the ratio of compact to standard that met the city's 40 percent maximum, therefore this could be a condition that they go with option 2. This couldn't be a denial. Tokos noted that building coverage was tricky because the zone allowed 85 percent outright coverage without separation. To impose a setback on this would be problematic. If the Commission denied the request based on this, they needed to explain how the development would have a greater impact on the area relative to other uses in the area. Tokos didn't think that building mass came into play under the adjustments. He noted that for parking, had the Apollo's not been torn down and was still standing the applicants wouldn't be asking for an adjustment. If the Commission was saying they were loading more to the public space, they needed to articulate what would then be acceptable because anyone coming in on this property would be asking for an adjustment. Tokos requested that they give a reason why they weren't comfortable with the parking adjustment so he could draft a final order for it. He reminded that if they thought they could get to an approval with further adjustments, they could propose a question to applicant, do another continuance to express what the those adjustment

changes would be, give the applicant an opportunity to make the changes, then bring it back for another hearing. They needed to do this within the 120 day mark, which included time for an appeal to the City Council. Escobar noted the last time there was a hotel being built in Newport was in the Nye Beach area. These applicants met with the people who were in the area and they worked through issues with them. Tokos noted that Nye Beach had a specific design guides, but the Bayfront did not. These were two different situations. The hotel in Nye Beach had more time to do outreach because they already owned the property.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to deny File 1-CUP-23 / 1-ADJ-23 conditional use permit based on the inability of the applicant to satisfy the parking requirements as specified in the code. Escobar, Berman, East and Updike were an aye. Branigan, Hanselman and Blom were a nay. The motion carried in a voice vote.

Tokos noted he would reference that the basis of the denial was based on the amount of parking on the final order.

B. File No. 1-NCU-23: Nonconforming Use Permit to Build a 9-ft Diameter 40-ft Tall Enclosed Flare at the NW Natural LNG Plant.

Tokos reviewed the staff report.

Applicant: Michael Smith with Norwest Engineering addressed the Commission. He explained this request was for a new flare to continue to provide clean natural gas to Newport.

Berman asked what the other cylinder that was shown near it on the drawings was. He also asked if the new cylinder would be larger or smaller than the current one. Smith explained the new one would be similar in height but smaller in diameter. Berman asked if anything would be emitted from the cylinder and if the CO² counts met EPA standards. Smith reported that NW Natural had updated their air permit through the DEQ as part of this process. There wouldn't be visible smoke or steam.

Branigan asked if the flare would be on at all the times or just occasional. Smith reported it would be occasional. Branigan asked why the canopy couldn't be 20 or 30 feet. Smith explained the point source has to be a certain elevation. They wanted to be sure that it was high enough so that the emissions didn't come back down and also so the heat didn't come too close to where people were. Branigan asked what they did to dissipate the hydrocarbons. Smith explained they would bring in a rental flare similar to a water tank to sit onsite while they burned off the hydrocarbons. Hanselman asked what they had been doing with the contaminants currently. Smith reported they had a tank they keep them in, and then when they needed to be oxidized they would bring in a temporary flare to burn them. Escobar asked how tall the existing LNG tank was. Smith thought it was around 122 feet.

Updike asked what color the tank would be. The existing tank was blue and Updike thought they should consider going to a green color or camouflage. Smith would pass this along to NW Natural. He noted that he wasn't sure it would be coated because it could possibly just be stainless steel.

Proponents: None were heard.

Opponents: None were heard.

Chair Branigan closed the hearing at 8:49 p.m.

Blom concurred with the staff report. Escobar thought NW Natural Gas was a good neighbor and he didn't have a problem with the request. Hanselman agreed.. Berman repeated that he appreciated the area outside of the fence of the LNG Plant was for recreation. He had no problems with the request. East, Updike, and Branigan agreed.

MOTION was made by Commissioner Blom, seconded by Commissioner Berman to approve File No. 1-NCU-23 with conditions. The motion carried unanimously in a voice vote.

C. File No. 1-SUB-23 / 1-VAR-23 / 2-GP-23: Fisherman's Wharf Tentative Subdivision Plan, Variance, and Geologic Permit.

Tokos reviewed the staff report. Berman noted that one of the suggestions from the comments received was that every lot undergo analysis by a geologist. Tokos noted the geologic permit was for the subdivision and the installation of the street and infrastructure, not for the development of the homes. A geologic permit will be required to construct each of the homes as well. This could be done lot by lot or as a group of lots depending on what they were doing. Escobar asked if the homes could be included in this decision. Tokos explained this application was to create the 11 lot subdivision, not the homes.

Updike pointed out the recommendation in the geotechnical report used the word "should" several times and asked if this was enforceable. Tokos explained the developer must obtain the certification from the engineering geologist and geotechnical engineer that the work was performed consistent with the rest of the recommendations. It wasn't uncommon to not see hard language in a geotechnical report. They needed a little bit of wiggle room to be able to make adjustments through the course of construction. The city's job was to make sure any project in a geologic hazard area had oversight from the engineering geologist, or geotechnical engineer, when there was an engineered solution such as it was in this case.

Applicant: Zach Pelz and Lyle Misbach addressed the Commission. Pelz gave a PowerPoint presentation on the application. They felt that the comments that came in were good and felt their materials in the application, particularly the geotechnical report, spoke to these issues. Pelz thought the comments from Commissioner Updike concerning the word "should" in the report was addressed nicely by staff. He explained that before the city signed off on the final plat, which certified that all of the public improvements and the grading and site requirements had been installed per specifications, the certified engineering geologist would have to sign off on it as well. This behooved the contractors to do it in the right way or they wouldn't be able to sell the lots. The geotechnical engineer would be onsite monitoring construction to make sure that was being done the right way.

Pelz pointed out this was an application that had already been approved in 2018. Due to health reasons of the applicant, the application expired. They had previously received approved construction plans but they ran out of time to do them. Pelz reviewed the map of the configuration of the 11 lots in the subdivision, and the street improvements. Berman asked what the dotted lines on the drawing in the area above the section that wouldn't have sidewalks was. Pelz reported it was a public utility easement. He noted the parking on the hammer head would have two parking spaces per residential lot. They would have parking in a garage and on the driveway. There would also be sufficient room for fire trucks, ambulances, and trash disposal trucks. Hanselman asked if they were suggesting that multiple fire vehicles could turn around on the street. Pelz explained that at least one truck at a time would be able to turn around and they would have to take turns, which was standard.

Pelz showed illustrations for the limits to the grading and the contours of the slopes close to Harbor Crescent Drive. He explained that the slope would occur between the homes and would be graded to 1.8 to 1 to stabilize any erosion concerns. Where they excavated for a garage and the first floor of the dwellings, there would be a foundation wall to support the soil behind it to make sure it didn't wash out. Pelz explained that this was all a part of the geotechnical recommendation to deal with grading on the site. He noted the retaining walls weren't necessary. Through a combination of grading the site at less than a two to one slope and building the homes into the wall using foundation walls, they could sufficiently stabilize the adjacent slope next to the neighboring property.

Misbach noted that concerning the question on storm drainage and how it would impact the park below, lots one through eight all drained back to the new street and lots nine through 11 had a private storm drainage system on the west side of the lots to accommodate storm drainage out to Bay Boulevard. Blom asked if the storm drainage would all be onsite. Misbach confirmed this was correct and noted they would be directed into the storm drain system, not other properties.

Berman asked if they had decided how many of the new dwellings would be duplexes. Pelz reported there was no decision at that time. Berman asked if duplexes would affect the whole parking scenario. Tokos explained it wouldn't because the parking standard for a duplex unit was one off street space. If you had two duplex units they would still be required to have two off street parking spaces. Escobar asked if they would be single family dwellings or duplexes. Pelz reported they didn't know yet but the code allowed both types. They weren't sure what the mix would be. Escobar asked if they saw the letter from Bill Chadwick and if his concerns were in the existing code. Tokos explained that his concern that the final grading plan be reviewed and approved by the geotechnical engineer had been addressed and something that had to happen. They couldn't create the lots until they have the signoff from the geotechnical engineer. Tokos noted that Chadwick's concern on the potential slope stability was addressed by the applicants relative to the east side next to Harbor Crescent Drive.

Proponents: None were heard.

Opponents: Bill Chadwick addressed the Commission. He asked if a site grading plan had to be approved by a geotechnical engineer before the grading started or if would be after it was done. Tokos explained the geotechnical engineer observed through the whole course of the project. They had to be comfortable with the plan upfront and observe the work, otherwise they wouldn't sign off on it. Chadwick reported that he was the Chair of the Harbor Crescent Homeowners Association and their main concern was the slope stability along the boundary. There was already a steep slope there and they were concerned about the need for excavation to accommodate the lots on the east side of the hammer head road.

Teresa Atwill addressed the Commission. She appreciated the quality of the geotechnical report this time around. Atwill was concerned about how this development to plat the subdivision would put in a hammer head road and then the lots would be sold. The individual lot owners would have to get their own geotechnical reports. Atwill asked what the requirement was from the city for the people who wanted to build on the sites. Tokos explained that when they came in to construct a home on a lot there would be details on exactly what the recommendations were in terms of foundation construction and shoring through the course of building the house. Atwill noted that if they put in the hammerhead road and graded it, some of the lots could sit there for decades without being built on and would erode. She asked what kind of protections would they would be providing to the neighboring properties. Neighbors wouldn't want the land sitting around in a way that would

put their properties at risk. Atwill thought the staff recommendation language was vague. She didn't think it was clear that all the lots had to have engineered designed foundations. Tokos clarified that the development of the homes on the lots were going to be required to have their own geologic reports. The certified engineering geologist who prepares the report typically paired up with a geotechnical engineer or structural engineer. They would have to pair up in that manner when there was a engineered remediation that was proposed to as part of the of the build, such as retaining walls or things of that nature. In this case they would both be signing off. The geotechnical engineer or the structural engineer would get engaged only if there was an engineering solution. If there wasn't an engineering solution, a certified engineering geologist certification was sufficient. Atwill noted the geotechnical report wasn't written with the assumption that the hammerhead road was going in or all of the lots would sit around for a while. She asked if this was addressed or if it could be. Tokos explained that as part of the erosion control plan there would be a post grading stabilization with vegetation so that they didn't have exposed soil. It was typical to get vegetation established so erosion was reduced. There wasn't anything in the code that required they build on a lot in a particular timeframe. The expectation should then be that some of the lots would be there for a number of years. Berman asked if one of the lots ended up suffering erosion in the next five years, what would be the recourse for someone that wanted it to be mitigated. Tokos reported that if there was a property that had erosion to the point where they were causing stability issues, the city could enforce and require them to take steps to shore it up. This would have to be more than minor erosion.

Rebuttal: Pelz explained the geotechnical report included in the packet looked specifically at Chadwick's questions about stability issues for Harbor Crescent Drive. They designed a grading and erosion control plan that was specifically tailored to that situation in an attempt to make sure that there was no structural damage to the road. They were confident that with the proper excavation of the geotechnical recommendation that this property would be preserved. Pelz noted that for Atwill's comments on the preservation and maintenance of the erosion control plan, there was an erosion control plan that was a component of their approved construction plans. The geotechnical report recommended that for however long the lots had no finished homes on them, the geotechnical erosion control measures must be maintained in perpetuity. This needed to be done through some type of matting or hydroseeding. Sometime hydro seeding didn't take and it was the responsibility of the developer to maintain this. The city had the ability to enforce on this and make them revegetate the soils if needed. Hanselman asked if it specified it be noninvasive grasses. Pelz confirmed it did. Misbach mentioned this site had a DEQ permit which meant that not only did the city have authority over erosion control, but the DEQ would also be watching. Misbach reported they had already received a call from the DEQ about scotch broom on the site getting out of control that they remedied. Blom asked how the people who bought the properties would know what these requirements were. Pelz explained that once the city signed off on the final plat to create the lots, the city was essentially certifying that all of the conditions of approval have been met. The city had the ability to require certification from an engineering geologist and a geotechnical engineer to make sure that the slopes were suitable and had been maintained. Once the city issued the final occupancy for a home, it meant that the Building Official had inspected everything to confirm it meet all the state and local requirements for the home. This was the city's last opportunity to make sure everything had been checked. Once the occupancy was given, any issues would become a civil matter.

Chair Branigan closed the hearing at 9:29 p.m.

Berman didn't have a problem with the request because it was the same thing the Commission approved before. There were enough safeguards in place to make sure there weren't any adverse impacts. Berman was in favor of it. East agreed and was in favor. Updike didn't have any problems

with it because his questions had been answered. Hanselman was okay with the application. Escobar noted the subdivision had been approved back in 2018 but the progress didn't go forward at that time. He pointed out that the geologic requirements were stiffer now than back then. Escobar was in favor of the application. Blom noted she had questions about the fire access and how the future requirement would be addressed. She was in favor of the application. Branigan didn't have problems with the application.

MOTION was made by Commissioner Escobar, seconded by Commissioner Hanselman to approve File No. 1-SUB-23 / 1-VAR-23 / 2-GP-23 with the 14 conditions included in the staff report. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.

7. **Unfinished Business.**

A. **Planning Commission Work Program Update.**

Berman noted that during the League of Oregon Cities training the Commissioners had attended they recommended that they refer to each other as commissioners for the decorum of public hearings. He liked this idea and requested the Commissioners to do this. Berman noted that one of the comments concerning the hotel requested that the conditions of approval be in conformance to the Comprehensive Plan. He wondered how they could do this potentially. Tokos explained they generally shouldn't be applying the Comprehensive Plan policies directly. They should be putting standards in place through code that implemented the Comprehensive Plan, not applying the policies directly. When applying the policies directly it could be exceedingly difficult for any applicant to figure out how they met the bar. Typically, when they did Comprehensive Plan policies they followed these up with a package of amendments to implement the policies.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 9:52 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING FILE NO. 1-CUP-23 /)
1-ADJ-23 APPLICATION FOR A CONDITIONAL USE)
PERMIT AND ADJUSTMENTS TO PARKING AND) FINAL
SETBACK REQUIREMENTS, AS SUBMITTED BY) ORDER
JOHN LEE (ELSINORE INVESTMENTS, LLC, OWNER))**

ORDER DENYING A REQUEST for approval of a conditional use permit, and adjustments to City off-street parking and setback standards, to allow a three-story, 26,656 sq. ft. hotel with 2,623 sq. ft. of general retail / food and drinking establishment uses, and a 2,075 sq. ft. roof deck. The property address is 836 - 856 SW Bay Blvd, and it is identified as Lots 2, 3, & 4, Block 1, Plan of Newport, including a portion of a vacated alley, together with Parcels 1 and 2 of Partition Plat 1999-18 (Assessor's Map 11-11-08-CA, Tax Lots 2500, 2501, 2800, and 3300).

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code (NMC); and
- 2.) The Planning Commission has duly reviewed the request and has given proper and timely notice to affected property owners; and
- 3.) At public hearings on March 13, 2023 and March 27, 2023, the Planning Commission received testimony and evidence on said application; and
- 4.) At the conclusion of said public hearings, after consideration and discussion, the Planning Commission denied the request for a conditional use permit and adjustments.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact, Exhibit "A," support the denial of the conditional use permit and adjustment application involving the above referenced property.

BASED UPON THE ABOVE, the Planning Commission determines that the application does not comply with the adjustment criteria with respect to the requested reduction in the required amount of off-street parking and; therefore, concludes that it does not comply with applicable provisions of the City of Newport Municipal Code, and cannot be made to comply through the imposition of reasonable conditions.

Dated this 10th day of April 2023.

Bill Branigan, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-CUP-23/1-ADJ-23

FINDINGS OF FACT

1. On February 9, 2023, the applicant John Lee, on behalf of property owner Elsinore Investments, LLC, applied for a Conditional Use Permit and Adjustment to construct a three-story, 26,656 sq. ft. hotel. The main hotel services will be on the second and third floors. Approximately 2,623 sq. ft. of general retail / food and drinking establishment uses will be provided on the first floor behind the retail storefronts. A roof deck will; be incorporated into the design and it will be 2,075 sq. ft. in size.
2. The property address is 836 - 856 SW Bay Blvd, and it is identified as Lots 2, 3, & 4, Block 1, Plan of Newport, including a portion of a vacated alley, together with Parcels 1 and 2 of Partition Plat 1999-18 (Assessor's Map 11-11-08-CA, Tax Lots 2500, 2501, 2800, and 3300). The site is approximately 17,424 sq. ft. in size per Lincoln County Tax Assessor records
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Yaquina Bay Shoreland.
 - b. Zone Designation: W-2/"Water-Related."
 - c. Surrounding Land Uses: Tourist-oriented retail (north), tourist-oriented retail and fish processing (east), condominiums (west), and Coast Guard operations (south).
 - d. Topography and Vegetation: The property is relatively level having been cleared for development in the past. A large retaining wall exists near the west property boundary, with the finished grade of the condominiums to the west being 20-25 feet above that of the subject site. A small amount of landscaping exists at the southwest corner of the property. Otherwise, the property is largely devoid of vegetation.
 - e. Existing Structures: Forinash Gallery (1,224 sq. ft.) and Shark's Restaurant (978 sq. ft.). Apollo's Night Club/M&P Thai Restaurant (8,256 sq. ft.) was demolished in 2020.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Geologic hazards area.
 - h. Past Land Use Actions:

File No. 1-CUP-20 – Approval of Basics Public Market, a new 11,859 square foot mixed-retail, light industrial building. The facility was to include 3,000 sq. ft. of retail market space, 2,000 sq. ft. of restaurant space, and 6,859 sq. ft. of industrial space for food production. Approved 6/8/2020. Project did not move forward.

File No. 1-TSP-11 – Approval of a temporary structures permit for a 20-ft x 30-ft tent and fenced area to expand Apollo’s footprint during the Seafood and Wine Festival. Approved 2/7/11.

File No. 4-CUP-07. Permitted a 335 sq. ft. portion of the Apollo’s Nightclub building for use of a real estate office. Approved 6/4/07.

File No. 4-CUP-06. Permitted 600 sq. ft. of the Apollo’s Night Club building for use as a retail gift shop. Approved 4/24/06.

File No. 9-CUP-03. Approved use of the building at 836-848 SW Bay Blvd as a restaurant and bar (i.e. Apollo’s Night Club).

File No. 6-PAR-99. Approved a partition creating the parcels upon which Forinash Gallery and Shark’s Restaurant are situated. Affects 852, & 856 SW Bay Blvd. Approved 8/4/99.

File No. 2-CUP-91. Permitted the remodeling and retail use of buildings located at 852 & 856 SW Bay Blvd. Approved 3/11/91.

4. A conditional use permit is required for hotel and commercial uses per Newport Municipal Code (NMC) Section 14.03.080(18), which stipulates that uses that are permitted outright in a C-2/“Tourist Commercial” zoning district require a conditional use permit to be located in a W-2/“Water-Related” zoning district. Sales oriented general retail, hotels/motels, and eating and drinking establishments are permitted outright in a C-2 zone district (NMC Section 14.03.070(2)(a) and (2)(d)).
5. Additionally, applicant is seeking adjustments to certain dimensional standards applicable to their project, more particularly described as follows:
 - A. Approval of a 40% adjustment to the adjacent yard buffer, reducing it to 6 ft. along the west property line that is adjacent to the residential zone. The zoning code requires a 10 ft. adjacent yard buffer per NMC Section 14.18.020.
 - B. Approval of a 30% reduction to the required number of off-street parking spaces. The applicant notes that City parking standards in NMC Section 14.14.030 require that they provide 48 parking stalls for the proposed hotel (47 rooms on the 2nd and 3rd floors plus one manager stall). The commercial spaces on the ground floor will also require 9 parking stalls for general retail or up to 17 for a food and drink establishment depending on how the space is utilized. This amounts to a maximum of 65 spaces. The applicant notes that they are providing 46 on-site parking stalls. The Bayfront Parking District, per Resolution No. 3864, reduces the number of required off-street parking spaces by up to five (5). This makes the maximum number of required off-street spaces 60, with a percent reduction to 46 spaces being 26.4%.
 - C. Approval of a 13% adjustment to the maximum percentage of allowable compact stalls. NMC Section 14.14.060 allows 40% of the parking to be compact stalls (7.5 ft. wide by 15-ft long) which is 18 stalls. With this application, the applicant is requesting 6 additional stalls.

6. Pursuant to NMC Section 14.33.030(B), a deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision making procedure.
7. Criteria for approval of a conditional use are found in NMC Section 14.34.050, and read as follows:
 - A. The public facilities can adequately accommodate the proposed use.
 - B. The request complies with the requirements of the underlying zone or overlay zone.
 - C. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
 - D. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.
8. Criteria for approval of an adjustment are found in NMC Section 14.33.050, and read as follows:
 - A. That granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
 - B. That any impacts resulting from the adjustment are mitigated to the extent practical; and
 - C. That the adjustment will not interfere with the provision of or access to appropriate utilities, nor will it hinder fire access; and
 - D. That if more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zoning district.
9. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on February 22, 2023 to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 p.m., March 13, 2023. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on March 3, 2023. The applicant supplemented their application and made it complete on March 2, 2023.
10. A public hearing was held on March 13, 2023. A statement of rights and relevance and applicable criteria was read by the Chair and the Planning Commission members disclosed any ex-parte contact, conflicts of interest, and/or bias related to the application. No objections were

made to any of the Planning Commissioners hearing the matter. The Commission received the staff report and the applicant John Lee, and his representative Denny Han, presented the application and fielded questions from Commission members. Several members of the public were in attendance, to provide testimony in support and in opposition to the application. Those testifying in support of the application included Elizabeth Reyes, Gervacio Castillo, Mary Young, Karla Clem, John Tesar, Steven Webster, and Janet Webster. Persons testifying in opposition to the application included Janine LaFranchise, Charlotte Boxer, Jon Baker, Lyn Baker, Adriana Buer, Tom Briggs, Beverly Smith, Darla Sweeter, and Amber Wishoff. After the Commission accepted public testimony, the applicant provided rebuttal testimony. Following rebuttal, the Commission requested the applicant address several questions they had about the project and continued the public hearing to March 27, 2023.

11. Questions the Commission asked of the applicant are summarized as follows: (a) verify that the roof appurtenances exceeding 35 feet do not exceed the 200-sq. ft. allowed by city code; (b) identify how pet accommodations will be handled on the premises; (c) confirm that ADA parking requirements will be satisfied; (d) indicate room sizes on the floor plans; (e) confirm that building code EV charging requirements can be met; (f) identify how hotel staffing will be handled; (g) provide an alternate parking layout that alleviates the need for an adjustment to the 40% maximum percentage of off-street parking stalls that can be compact; and (h) explore a one-way looped off-street parking option.
12. On March 20, 2023, the applicant's representative, Denny Han, submitted a letter and revised site plan, floorplan, and elevation drawings responding to the Planning Commission's questions. Additional written testimony was also received from individuals in support of, and in opposition to, the application. A staff memo, dated March 24, 2023, summarized the new information that had been received. The memo also noted that parking Options #1 or #2 could satisfy the approval criteria outlined in the original staff report with imposition of the listed conditions of approval.
13. On March 27, 2023, the Planning Commission opened the continued public hearing, received a report from staff, considered testimony from the applicant's representatives Denny Han and Diana Steinman. Proponents and opponents of the application were afforded an opportunity to testify. Persons who testified in support of the application included Terry Martin, David Malone, Christi Farrell, Margo Stark & Jerry Best, Dylan McEntee and Freddy Saxton. Individuals opposed to the application included Beverly Smith, Wendy Engler, Janine LaFranchise, Lynn Baker, Colleen Martin, Charlotte Boxer, Phyllis and David Johnson, and Rebecca Noble. The applicant was afforded an opportunity for rebuttal and the hearing was closed.
14. The minutes of the March 13, 2023 and March 27, 2023 hearings are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments, and materials submitted by opponents, are incorporated by reference into the findings. The Planning Staff Report Attachments and opposition testimony are identified as follows:

Attachment "A" – Application Form

Attachment "B" – Lincoln County Assessor Property Reports

Attachment "C" – Lincoln County Assessor Map

Attachment "D" – Application Narrative
 Attachment "E" – Site Plan and Elevations, Received March 2, 2023
 Attachment "F" – Survey of the Existing Property
 Attachment "G" – Zoning Map of the Area
 Attachment "H" – Aerial and Topographic Map of the Area
 Attachment "I" – Images of Abbey Hotel
 Attachment "J" – Public Hearing Notice
 Attachment "K" – Letter from Janine LaFranchise, Received March 6, 2023
 Attachment "L" – Attachment A-1, File No. 4-CUP-06

After the staff report was prepared but prior to the March 13, 2023 hearing:

Letter from Jon Baker, received 3/13/23
 Letter from Adriana Buer, dated 3/13/23
 Petition from Charlotte Boxer (various signatories), received 3/13/23
 Letter from Elizabeth Reyes, Family Promise of Lincoln County, received 3/13/23
 Email from Gervacio Castillo, Asiatico Waterfront Sushi, 3/13/23
 Letter from Charlotte Boxer, dated 3/13/23
 Email from Mary Young, Manager of Latta's Fused Glass, dated 3/13/23
 Letter from Tom Briggs, dated 3/13/23
 Letter from Karla Clem, Pacific Communities Health District Foundation, dated 3/13/23
 Letter from Beverly Smith, dated 3/13/23

After the March 13, 2023 hearing and prior to the March 27, 2023 continued hearing:

Letter from Denny Han, ARLA Design, on behalf of the applicant, dated 3/20/23
 Letter from Beverly Smith, dated 3/20/23
 Email from Colleen Martin, dated 3/20/23
 Email from Rebecca Noble, dated 3/20/23
 Email from Dylan McEntee, Mo's Restaurant, received 3/20/23
 Email from Freddy Saxton, dated 3/20/23
 Applicant's revised site plan, floor plans, and exterior elevations, received, 3/21/23
 Email from Phyllis and David Johnson, dated 3/23/23
 Staff Memorandum, dated 3/24/23
 Letter from Charlotte Boxer, dated 3/24/23
 Letter from Lynn Baker, received 3/24/23
 Email from David Malone, dated 3/25/23
 Email from Margo Stark and Gerald Best, dated 3/25/23
 Email from Cristi Farrell, dated 3/27/23
 Email from Janine LaFranchise, dated 3/27/23
 Email from Wendy Engler, dated 3/27/23
 Email from Terry Martin, dated 3/27/23

15. Upon closing the March 27, 2023 hearing, the Planning Commission entered its deliberations and, after considering the testimony and evidence in the record, a motion was made and duly seconded to deny the application. In rendering this decision, the Commission concluded the following:

CONCLUSION

The applicant's revised site plan, floor plan, and exterior elevations, received 3/21/23, depict 44 or 43 off-street parking spaces depending upon whether or not Parking Option #1 or Parking Option #2 is selected. Parking Option #2 includes a modest reduction to the commercial area. The cover page on this set of plans notes that the required off-street parking for the project, assuming the commercial space is used for general retail, is 51 spaces. If the commercial space is developed with restaurant uses, a total of 59 off-street parking spaces would be required. The applicant's requested adjustment to the required number of off-street parking spaces for Parking Options #1 and #2, assuming general retail in the commercial spaces is 14.7% and 17.0% respectively. Or put another way, they are asking for a reduction of 7 or 8 spaces. When factoring in potential restaurant use of the commercial space, the percentage adjustment for Parking Options #1 and #2 is 29.1% or 31.4%, respectively, a difference of 14 or 15 parking spaces. Parking Option #3, providing only 30 off-street parking spaces, exceeds the 40% maximum deviation that can be authorized as an adjustment.

Considering that the range of the off-street parking adjustments is between 14.7% and 31.4%, Planning Commission approval is required per NMC Section 14.33.030(B). In order to grant the adjustment, the Planning Commission must review the application to determine whether it meets the four (4) criteria listed in NMC Section 14.33.050. With regard to those criteria, the Commission, at the close of the hearing, concluded that Criterion Nos. 1 and 2 had not been met.

The first criterion states *"That granting the adjustment will equally or better meet the purpose of the regulation to be modified."* In the context of parking, the purpose of the regulations is to ensure that there is a sufficient amount of vehicle parking to meet demand. The Bayfront is a "special parking area" per NMC Section 14.14.100, where alternative parking standards can be adopted in lieu of the ratios in NMC 14.14.030 that are used to calculate the required amount of off-street parking. Like the other "special parking areas" in Nye Beach and City Center, the Bayfront possesses a significant amount of public parking. That said, at this time, the alternative Bayfront parking standards amount to a reduction of up to five (5) off-street parking spaces that would otherwise be required (Resolution No. 3864). The Commission concludes that this five (5) space reduction was put in place because of the presence of on-street parking, and in consideration of the existing development pattern in the area. The applicant's proposal takes advantage of the five (5) off-street parking space reduction and still falls short of the required amount of off-street parking by 7 to 15 spaces. While the Commission appreciates the staff analysis comparing the applicant's parking demand to the parking demand generated by the previous use, it is relevant to point out that the previous use no longer exists on the property. Accordingly, the clause in NMC 14.14.030, which states *"for reconstruction or change of type of use, credit shall be given to the old use so that the required parking shall be based upon the increase of the new use"* does not apply. While the Commission may be able to find that this provision of the code need not be interpreted so literally, given that the prior uses were terminated only three (3) years ago, it concludes that to do so would be inappropriate given testimony in the record pointing to the severe vehicle congestion that exists along the Bayfront. Comment was made that the City will be installing meters in the Bayfront to manage parking demand and congestion. That has not occurred yet, and it would be speculative of the Commission to rely upon an as yet unimplemented metering program as a way of ensuring that parking in the area will be sufficient.

The second criterion states “*that any impacts resulting from the adjustment are mitigated to the extent practical.*” The staff analysis notes that mitigation is not needed because the Bayfront area has on-street parking that is provided for the purpose of meeting the additional parking demand from area businesses. For the reasons noted above, the Commission concludes that to the extent on-street parking can be relied upon to meet the needs of this project, that reliance is limited to five (5) parking spaces. Since the project seeks to rely upon more than five (5) on-street spaces, mitigation is needed to off-set the additional impact. Since the applicant has not provided any evidence indicating how they might mitigate the on-street parking impact, the Commission must conclude that this standard has not been satisfied.

For these reasons, this application for a conditional use permit and adjustments for a three-story, 26,656 sq. ft. hotel with 2,623 sq. ft. of general retail / food and drinking establishment uses, and a 2,075 sq. ft. roof deck must be **DENIED**.

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT, COUNTY
OF LINCOLN, STATE OF OREGON**

IN THE MATTER OF PLANNING COMMISSION)
FILE # 1-NCU-23, APPLICATION FOR ALTERATION)
AND EXPANSION OF A NONCONFORMING USE,) **FINAL**
AS SUBMITTED BY NW NATURAL GAS COMPANY) **ORDER**
(MIKE SMITH, NORWEST ENGINEERING, AUTHORIZED)
REPRESENTATIVE))

ORDER APPROVING a request per Chapter 14.32 ("Nonconforming Uses, Lots, and Structures") of the Newport Municipal Code (NMC) to construct a 9-ft diameter, 40-ft tall enclosed flare at the NW Natural LNG Plant. The subject property is located at 1702 SE Bay Boulevard and is identified as Tax Lot 01600 of Lincoln County Tax Assessor's Map 11-11-09.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on March 27, 2023; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested nonconforming use permit.

BASED UPON THE ABOVE, the Planning Commission determines that the request to alter and expand a nonconforming use is in conformance with the provisions of the Comprehensive Plan and the Municipal Code of the City of Newport; and the request is, therefore, granted subject to the following conditions:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as

Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

Accepted and approved this 10th day of April, 2023.

Bill Branigan, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File # 1-NCU-23

FINDINGS OF FACT

1. NW Natural Gas Company (Mike Smith, Norwest Engineering, authorized representative) applied on February 28, 2023, per Chapter 14.32 ("Nonconforming Uses, Lots, and Structures") of the Newport Municipal Code, to construct a 9-ft diameter, 40-ft tall enclosed flare at the NW Natural LNG Plant.
2. The subject property is located at 1702 SE Bay Boulevard (Lincoln County Assessor's Tax Map 11-11-09, Tax Lots 1600). The property is approximately 21.62 acres in size.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Shoreland.
 - b. Zone Designation: W-1/"Water Dependent."
 - c. Surrounding Land Uses: An estuary to the south and east. Water dependent and industrial zoned land border the property to the north and west. Property to the north is proposed to be developed with a log yard. A disposal site for dredge materials is situated to the west.
 - d. Topography and Vegetation: The subject property is flat and elevated just above the adjoining estuary. Riprap embankments exist along the perimeter of the site. Upland areas are vegetated with grass.
 - e. Existing Structures: A large natural gas tank, control building, process building and other small buildings surrounded by a security fence.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Portions of the property, namely along the perimeter of the site, are within the 100-year floodplain and tsunami hazards overlay.
 - h. Past Land Use Actions: File 3-NCU-22, approved replacement and upgrades to electrical equipment. The new equipment will be placed on pile supported foundations near the existing electrical building. There will also be new underground conduit and cable trays. File 2-NCU-21, approved the construction of three concrete equipment foundations on a vacant portion of the LNG Plant facility. The foundations support equipment, pressure vessels, process piping and a cable tray that are part of a Pretreatment Regen Optimization project. File 2-NCU-18, approved the replacement of an existing glycol cooling system, which cool the compressors that maintain the natural gas as a liquid. The new equipment was placed on pile at two pad sites near the existing system, between the existing process building and the existing electrical building. New piping, a small oil cooler and a cable tray were also approved. File 1-NCU-17, approved construction of for a new natural gas pre-treatment system to more effectively remove water, carbon dioxide, trace constituents and natural gas liquids from the domestic natural gas before it is delivered to the liquefaction plant. File 2-NCU-15, approved the replacement of an existing office

building (a.k.a. "Control Building") with a new, 3,893 sq. ft., single story office building.

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on March 3, 2023, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 pm on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on March 17, 2023. No comments were received in response to the notice.

5. A public hearing was held on March 27, 2023, at which the Planning Commission received the staff report and allowed for testimony on the request. The minutes of the March 27, 2023 meeting are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "A-1" – Applicant's Narrative
- Attachment "A-2" – County Assessor Information
- Attachment "A-3" – Location and Site Plan, Norwest Engineering, dated 2/14/23
- Attachment "A-4" – Site Plan & Aerial, Norwest Engineering, dated 2/9/23
- Attachment "A-5" – Plan View Drawing, Norwest Engineering, dated 2/9/23
- Attachment "A-6" – Elevation Drawing, Norwest Engineering, dated 2/9/23
- Attachment "A-7" – Model View of Flare, Norwest Engineering, dated 2/9/23
- Attachment "B" – Zoning Map of the Area
- Attachment "C" – Public Hearing Notice and Map

6. **Explanation of the Request:** Pursuant to Section 14.32.070/"Alteration, Expansion, or Replacement of Nonconforming Uses and Structures" of the Newport Municipal Code, after verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood.

The applicants own property identified as Tax Lot 1600 on Tax Map 11-11-09. The property contains a Liquefied Natural Gas (LNG) storage tank, process buildings and a control building. The property appears to have been acquired by NW Natural in 1974 and the plant was commissioned in 1977. In their written narrative, the applicant states that they will be constructing a new enclosed flare, process piping, and foundation that will be an addition to the existing Natural Gas Pre-treatment process. The new enclosed flare system will more effectively treat the natural gas they receive, and will eliminate the need for rental flares. The applicant notes that the new flare will not produce any visible "smoke" or flame and will be monitored when in use. They point out that the equipment will improve the site's reliability which ensures NW Natural can supply customers in the area with gas during any supply constraints. These additions to the Natural Gas Pre-Treatment process will be located at a clear location on the west side of the plant just south of the existing oil heater. The work area is shown on the applicant's site plans (Attachment "A-1" and "A-2"). The size of the flare, and its location relative to the LNG tank is illustrated on Attachments "A-6" and "A-7".

7. **Verification of Status of Nonconforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:

- The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
- The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicants provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings.

The approval authority shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use (September 7, 1982). When determining the nature and extent of a nonconforming use, the approval authority shall consider:

- Description of the use;
- The types and quantities of goods or services provided and activities conducted;
- The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;
- The number, location, and size of physical improvements associated with the use;
- The amount of land devoted to the use; and
- Other factors the approval authority may determine appropriate to identify the nature and extent of the particular use.

A reduction of scope or intensity of any part of the use as determined under this subsection for a period of 12 months or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

8. **Applicable Criteria (Section 14.32.070):** After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the approval authority shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

- (1) The character and history of the use and of development in the surrounding area;
- (2) The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood;
- (3) Adequacy of infrastructure to accommodate the use. For the purpose of this subsection, infrastructure includes sewer, water, and streets;
- (4) The comparative numbers and kinds of vehicular trips to the site;
- (5) The comparative amount and nature of outside storage, loading, and parking;

- (6) The comparative visual appearance;
- (7) The comparative hours of operation;
- (8) The comparative effect on solar access and privacy;
- (9) Other factors that impact the character or needs of the neighborhood.

CONCLUSIONS

In order to grant the permit, the Planning Commission must find that the applicant has provided a complete application, that there is substantial evidence that the Commission can rely upon to verify the nature and extent of the existing nonconformity, and that the expansion will not result in a greater adverse impact on the neighborhood considering the criteria listed under NMC 14.32.070.

1. The applicant's property is located in a W-1/"Water-Dependent" zoning district (Attachment "B"). Utility facilities, such as the LNG Plant, are not permitted uses in this district (NMC 14.03.080).

2. Consistent with NMC 14.32.040, the applicant submitted a completed application form, narrative, names and addresses of property owners within the notification area, site plan, and structural details. In sum, this constitutes substantial evidence upon which the Planning Commission can decide as to whether or not the new foundations and associated equipment satisfy the City's standards for the alteration and expansion of a non-conforming use.

3. With respect to NMC 14.32.060, regarding the non-conforming status of the LNG Plant, the applicant has previously provided assessment information indicating that the property was acquired in 1974 and evidence that the facility has been continuously maintained since it was commissioned in 1977. Per the Newport Zoning Ordinance, the LNG Plant is non-conforming if it is established that the facility existed and has been continuously maintained since September 7, 1982. Considering the above, the Planning Commission finds, as it has with the last five decisions (File Nos. 3-NCU-22, 2-NCU-21, 2-NCU-18, 1-NCU-17 and 2-NCU-15), that there is substantial evidence in the City records that the LNG plant qualifies as non-conforming.

4. After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the Planning Commission may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Commission shall consider the factors listed below.

a. The character and history of the use and of development in the surrounding area.

i. The applicant notes that the property has been utilized in continuous use as an LNG peak-shaving facility since its inception in June of 1977.

ii. The applicant further states that addition of the enclosed flare equipment is in keeping with the character of the other existing equipment and buildings on the site and surrounding neighborhood. The existing buildings on the site consist of metal paneling exterior walls and standing seam metal gabled roofs, and the proposed new buildings will be of similar construction and visual appearance to existing plant facilities.

iii. The surrounding properties are largely undeveloped. Lands to the north and west will likely develop in an industrial manner in the coming years, to complement the Port of Newport's International Terminal. This would be consistent with the water dependent or heavy industrial zoning that is in place. These types of uses would orient toward Bay Boulevard for the transport of goods and materials by truck or toward the bay for barge or shipping out of the terminal site. In either case, the properties would orient away from the LNG Plant facility.

iv. The alteration/expansion to the non-conforming use relates to the construction of a new enclosed flare, process piping, and foundation that will be an addition to the existing Natural Gas Pre-treatment process. The equipment is situated in close proximity to the existing LNG storage tank, roughly 312-feet from the north property line and 247 feet from the west property line, within the fenced enclosure (Attachment "A-3"). Accordingly, there does not appear to be an increased risk to neighboring properties associated with the development.

v. The applicant provides community access to the estuary and portions of its property for recreational purposes. They are not required to do so, and the new flare and related equipment does not impact these areas as it is located within the perimeter of the security fence.

vi. Considering the above, the Planning Commission concludes that the flare equipment is consistent with the character and history of development in the area given that the change will not further exacerbate the nonconforming situation.

b. The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood.

i. The applicant notes that the proposed enclosed flare equipment is not anticipated to create any additional significant vibration, dust, odor, fumes, glare, noise or smoke. They further point out that the new equipment is comparable in design and function to other existing equipment on site.

ii. Nearby water-dependent and heavy industrial properties are envisioned to develop with uses that generate noise, vibration, dust, odor, fumes, glare, or smoke in excess of anything that could be attributed to the LNG Plant facility.

iii. Considering the above, the Planning Commission concludes that the flare equipment will not create noise, vibration, dust, odor, fumes, glare, or smoke in a manner that would result in a greater adverse impact on the neighborhood.

c. Adequacy of infrastructure to accommodate the use (including sewer, water, and streets.)

i. The applicant explains that the existing infrastructure to the site from SE Bay Blvd is adequate and will accommodate use of the new equipment. Access to the equipment is available via an existing gravel roadway (Attachment "A-4"). The proposed development does not place any additional demands on on-site water and wastewater infrastructure.

- ii. Considering the above, the Planning Commission concludes that the flare equipment will not cause any greater adverse impact on the neighborhood as it relates to the adequacy of infrastructure to serve the use.

d. The comparative numbers and kinds of vehicular trips to the site.

- i. The applicant notes that no additional vehicular trips to the site are anticipated as a result of the proposed process equipment.
- ii. Considering the above, the Planning Commission concludes that installation of the equipment will not cause any greater adverse impact on the neighborhood relative to this criterion.

e. The comparative amount and nature of outside storage, loading, and parking.

- i. The applicant indicates that, per the zoning ordinance, there is no minimum / maximum number of parking spaces required for this development and that a loading area is not required. This is attributed to the nature of the improvements, which are a component of the gas processing operation that do not generate demand for additional staff or service trips that cannot otherwise be accommodated with existing on-site parking and service areas.
- ii. The applicant's site plan illustrates where the flare and related work is to be performed (Attachment "A-3"). It is an operational component of the LNG Plant facility that is secured to a foundation and is not being stored on-site.
- iii. Given the above, the Planning Commission concludes that the flare equipment and related improvements will not cause any greater adverse impact on the neighborhood with respect to comparative amount and nature of outside storage, loading, and parking.

f. The comparative visual appearance.

- i. The applicant states that the construction work will visually match the existing structures in color and general appearance, and surroundings so as to ensure good general visual appearance of the area.
- ii. Applicant's elevation drawing and model view provide the Commission with a clear sense of the mass and height of the flare and demonstrate that the scale of the improvements is modest when compared to the adjacent 122-ft tall LNG tank (Attachment "A-6" and "A-7").
- ii. Considering the above, the Planning Commission concludes that the flare equipment and related improvements will not cause any greater adverse impact on the neighborhood as it relates to comparative visual appearance.

g. The comparative hours of operation.

- i. The applicant notes that the existing LNG Plant facility is in operation 24/7 and that the new enclosed flare equipment is anticipated to be in operation on the same schedule.

- ii. Based on the above, the Planning Commission concludes that the flare equipment will not cause any greater adverse impact on the neighborhood as far as comparative hours of operation.

h. The comparative effect on solar access and privacy.

- i. The applicant notes that the flare equipment will be set along the west side of the property, a considerable distance from the adjacent neighbors. They further indicate that, at this time, no additional staff is anticipated to be needed and that they do not believe the project will have an effect on solar access or privacy.
- ii. Given the above, the Planning Commission concludes that the proposed flare equipment and related improvements satisfies this criterion.

i. Other factors which impact the character or needs of the neighborhood.

- i. The applicant asserts, and it would be reasonable for the Commission to accept, that there are no other factors that will impact the character or needs of the neighborhood. They point out that the proposed flare equipment is of like kind to the longstanding and existing use of the property; that no additional vehicle or pedestrian traffic, visual or environmental impacts are anticipated; and that the proposed construction will not affect current public use of the surrounding area.

j. The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood.

- i. The LNG plant is in a W-1 zoning district and is nonconforming because utility facilities are not permitted in this zone district. The purpose of the W-1 zone is to protect Yaquina Bay shoreland areas for uses that need contact with or use water for water-borne transportation, recreation, energy production or water supply (NMC 14.03.040). The LNG Plant facility is not dependent upon the bay for any of the factors listed.
- ii. The LNG Plant facility was constructed before the W-1 zoning was in place, and most of the applicant's property is dedicated to this use. In fact, it appears that the confines of the secure facility have remained more or less static. The new flare equipment is being placed within the fence line, in close proximity to existing buildings and the LNG tank. Therefore, the addition of the equipment will not reduce the amount of land available for water-dependent development.
- iii. Based on the above, the Planning Commission concludes that the flare equipment will not result in a greater adverse impact on the neighborhood relative to the objectives of the current zoning provisions.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for the expansion of a nonconforming use found in Chapter 14.32 of the Newport Municipal Code (NMC); and, therefore, the requested

alteration or expansion of a nonconforming use as described in the applicant's findings and supporting documents as submitted, is hereby approved with the following conditions:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

IN THE MATTER OF PLANNING COMMISSION)	
FILE NO. 1-SUB-23/1-VAR-23/2-GP-23, APPLICATION)	
FOR TENTATIVE SUBDIVISION PLAT, VARIANCE,)	
AND GEOLOGIC PERMIT APPROVAL FOR THE AN)	FINAL
11 LOT SUBDIVISION IDENTIFIED AS “FISHERMAN’S)	ORDER
WHARF ESTATES, AS SUBMITTED BY JOSEPH D.)	
MCDONALD, TRUSTEE OF THE GREYSON AND)	
AMELIA IRREVOCABLE TRUST)	

ORDER APPROVING the request for the tentative subdivision plat, geologic permit, and variance for the eleven lot residential subdivision identified as “Fisherman’s Wharf Estates.” The property is located at 1005 SE Bay Boulevard, between the Harbor Village RV Park and Harbor Crescent residential subdivision (Tax Lot 400 of Lincoln County Assessor’s Tax Map (11-11-09-CB). It is approximately 1.72 acres in size per Lincoln County Assessor’s records.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request for the planned development, with a public hearing a matter of record of the Planning Commission on March 27, 2023; and
- 3.) At the public hearing on said application, the Planning Commission received evidence and recommendations from the applicants, interested persons, and Community Development (Planning) Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, approved the request for the tentative subdivision plat, geologic permit, and variance with conditions of approval.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") are adopted in support of approval of the request for a tentative subdivision plat, geologic permit, and variance with the following conditions of approval:

1. It shall be the responsibility of the property owner to adhere to the recommendations contained in the Geotechnical Investigation for Fisherman’s Wharf Estates, prepared by Foundation Engineering Inc., dated February 14, 2023 (the “Geologic Report”).

11. All public improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. The City may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
12. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements.
13. A map showing public improvements “as-builts” shall be filed with the city upon completion of the improvements.
14. A final plat shall be submitted within two years of the tentative plat (i.e. concept map) approval. The developer shall finalize the survey, secure the signatures on the plat from all impacted owners, and prepare necessary conveyance documents to ensure that the lot configuration, ownership, and rights-of-way are established as illustrated on the tentative plat. The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor.

BASED UPON THE ABOVE, the Planning Commission determines that the request is in conformance with the provisions of the Comprehensive Plan and the Municipal Code of the City of Newport.

Accepted and approved this 10th day of April, 2023.

Bill Branigan, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director
City of Newport

EXHIBIT "A"

File No. 1-SUB-23/1-VAR-23/2-GP-23

FINDINGS OF FACT

1. On February 21, 2023, the property owner Joseph D. McDonald, Trustee of the Greyson and Amelia Irrevocable Trust U/A/D (Lyle Misbach, PE, CFM, AKS Engineering & Forestry, LLC, authorized representative) applied for approval of an eleven lot residential subdivision identified as "Fisherman's Wharf Estates." A Type III variance is requested to allow the hammerhead portion of the proposed street to be built without sidewalk. Additionally, a geologic hazard report has been submitted outlining measures that will be taken to safeguard against existing hazards given that the subject property is within a mapped geologic hazard area. A similar application had been approved by the City in 2018; however, the owner did not act upon that approval and it expired.

2. The property is located at 1005 SE Bay Boulevard, between the Harbor Village RV Park and Harbor Crescent residential subdivision (Tax Lot 400 of Lincoln County Assessor's Tax Map (11-11-09-CB). It is approximately 1.72 acres in size per Lincoln County Assessor's records.

3. Staff reports the following facts in connection with the application:

- a. Plan Designation: Low Density Residential
- b. Zone Designation: R-2/"Medium Density Single-Family Residential."
- c. Surrounding Land Uses: Harbor Village RV Park to the north and west, Harbor Crescent residential subdivision to the east, and the Embarcadero Resort to the south (across SE Bay Blvd).
- d. Topography and Vegetation: There are a few scattered trees, shrubs and other low lying vegetation on the property. The site is moderately sloped, dropping in elevation from east to west, with steeper terrain along the east, north and western perimeter of the property.
- e. Existing Structures: None.
- f. Utilities: All utilities are available to the site.
- g. Development Constraints: The property is within a mapped geologic hazards area.
- h. Past Land Use Actions:

File No. 1-SUB-18/2-VAR-18/3-GP-18. Approval of the same 11 lot subdivision as is currently being requested. A Type III variance allowed the hammerhead portion of the proposed street to be built without sidewalk. Additionally, a geologic hazard permit was approved outlining measures that will be taken to safeguard against existing hazards given that the property is within a mapped geologic hazard area. Approval expired due to inaction.

File No. 3-PD-07/6-SUB-07. Approval of a planned development for 19 single family detached residences.

File No. 1-PD-01. Approval of a planned development for 22 units (single family and duplexes).

File No. 1-PD-97. Approval of a planned development for 18 single-family residences and two duplexes.

- i. Notice: Public notice of the application and public hearing was mailed to surrounding property owners within 200 feet of the subject property and public entities and agencies on March 1, 2023. Notice of the public hearing was also published in the Newport News-Times on March 17, 2023.

4. The applicant, The Greyson and Amelia Irrevocable Trust, is seeking approval of an 11 lot, residential subdivision to accommodate single family homes and/or duplexes. The subdivision will be served by a new public street with 36-feet of pavement, sidewalks, curbs, gutters and street lights.

A hammerhead will be constructed at the end of the street, and a variance has been requested to allow this portion of the street to be built without sidewalk. A geologic permit outlines measures that will be taken to safeguard against existing hazards, since the property is within the City of Newport's Geologic Hazards Overlay.

5. The applicant notes that the project covers the entirety of Tax Lot 400 (Lincoln County Assessor's Map 11S11W09CB) located at 1005 SE Bay Boulevard. They indicate that the site is slightly larger than what is indicated in the Assessor's records at ± 1.81 acres, and is within the City's R-2 zone district. SE Bay Boulevard along the frontage of the property is fully improved with two vehicular travel lanes, curbs, gutters, sidewalks, bike lanes, and has a curb cut for access to the lot with truncated domes installed in the curb ramps.

6. In their executive summary, the applicant notes that they previously applied for a tentative subdivision plat, geologic permit, and variance for this 11-lot residential subdivision and received initial approval on October 22, 2018. The subsequent construction plans and permits were approved in September 2019, and construction was set to begin in June 2020. Due to extenuating circumstances (including personal health-related complications afflicting applicant, and market uncertainty created by the worldwide coronavirus pandemic), the applicant was not able to move forward with construction under the original schedule. A one-year extension of the land use approval was granted by the City in October 2021 and that extended the final plat recording deadline to October 2022. Unfortunately, the property owner continued to experience a decline in health that precluded completion of the approved project by the October 2022 deadline and the approval therefore expired.

7. The applicant notes that several amendments to the Newport Municipal Code have occurred since the previously approved subdivision was submitted and that they have attempted to clearly synthesize the scope of such changes in their application as they relate to the proposal. Table 1 provides a summary of relevant amendments to the Newport Municipal Code which have occurred between the submittal date of the original application and the application that is the subject of this request (Attachment "A"). While code amendments implementing the City's transportation system plan and other related updates have occurred, the bulk of the decision criteria remain as they were during the decision on the 2018 application.

8. A public hearing was held on March 27, 2023. At the public hearing, the statement of rights and relevance and applicable criteria were read. The Planning Commission disclosed any ex parte contact, conflicts of interest, and/or bias. No objections were made to any of the Planning Commissioners hearing the matter. The Planning Commission received the staff report and heard testimony from proponents and opponents of the proposal. The minutes of the March 27, 2023, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

Attachment "A" – Application by AKS Engineering & Forestry, dated February 2023

Exhibit "A" – Application Forms and Checklists

Exhibit "B" – 11x17 Copy of Subdivision Plans, Civil Construction Set, received 9/23/19

Exhibit "C" – Lincoln County Assessor's Maps

Exhibit "D" – 200-Foot Notification List

Exhibit "E" – Service Provider Letters

Exhibit "F" – Subdivision Guarantee Report

Exhibit "G" – Geotechnical Investigation, by Foundation Engineering, dated 2/14/23

Attachment "B" – Zoning Map

Attachment "C" – Utility and Existing Terrain Map

Attachment "D" – Notice of Public Hearing and Map

Attachment "E" – Letter from Scott and Mary Rogers, dated 3/9/23

Attachment "F" – Email from Clare Paul, Asst. City Engineer, dated 3/16/23 with attached letter of 6/4/18 Confirming the Adequacy of Public Services

9. After the Planning Staff Report was prepared, the Planning Commission received written testimony from the following individuals, who also testified at the hearing.

Letter from William Chadwick, dated 3/24/23

Email and attached letter from Teresa Atwill, dated 3/27/23

10. The application must be consistent with the approval criteria set forth in Newport Municipal Code (NMC) Chapter 14.21, geologic hazards, NMC Chapter 14.33, adjustments and variances, NMC Chapter 14.48, for tentative subdivision plat approval, and NMC Chapter 14.44, transportation standards.

CONCLUSIONS

After consideration of the application materials, staff report and the testimony in the record, the Planning Commission concludes as follows in regard to the criteria established in Newport's Municipal Code for approving the requested tentative subdivision plan, geologic report, and variance for the eleven lot residential subdivision identified as "Fisherman's Wharf Estates":

11. Compliance with NMC Chapter 14.21, Criteria for Approval of a Tentative Subdivision Plat within a Geologic Hazard Overlay. The criteria for approval of a tentative subdivision plat in an area of known geologic hazards has been addressed as follows:

(a) NMC Section 14.21.020(A). *The following are areas of known geologic hazards or are potentially hazardous and are therefore subject to the requirements of Chapter 14.21:*

1. Bluff or dune backed shoreline areas within high or active hazard zones identified in the Department of Geology and Mineral Industries (DOGAMI) Open File Report 0-04-09 Evaluation of Coastal Erosion Hazard Zones along Dune and Bluff Backed Shorelines in Lincoln County, Oregon: Cascade Head to Seal Rock, Technical Report to Lincoln County, dated 2004.

2. Active or potential landslide areas, prehistoric landslides, or other landslide risk areas identified in the DOGAMI Open File Report 0-04-09.

3. Any other documented geologic hazard area on file, at the time of inquiry, in the office of the City of Newport Community Development Department.

City of Newport zoning maps show that the subject property is in the Geologic Hazard Area. These regulations apply.

(b) NMC Section 14.21.020(B). *The DOGAMI Open File Report 0-04-09 is not intended as a site specific analysis tool. The City will use DOGAMI Open File Report 0-04-09 to identify when a Geologic Report is needed on property prior to development. A Geologic Report that applies to a specific property and that identifies a proposed development on the property as being in a different hazard zone than that identified in DOGAMI Open File Report 0-04-09, shall control over DOGAMI Open File Report 0-04-09 and shall establish the bluff or dune-backed shoreline hazard zone or landslide risk area that applies to that specific property. The time restriction set forth in subsection 14.21.030 shall not apply to such determinations.*

A Geotechnical Investigation for the property is included as Exhibit "G" of Attachment "A." The investigation serves as the required Geologic Report, is stamped by both a Certified Engineering Geologist and licensed Geotechnical Engineer, and confirms that the site is within a geologic hazard area.

- (c) NMC Section 14.21.020(C). *In circumstances where a property owner establishes or a Geologic Report identifies that development, construction, or site clearing (including tree removal) will occur outside of a bluff or dune-backed shoreline hazard zone or landslide risk areas, as defined above, no further review is required under this Chapter 14.21.*

The Geologic Report for the subject property is included in Exhibit "G". It confirms that the property is within a landslide risk area and concludes that the site is suitable for development provided recommendations contained in the document are followed.

- (d) NMC Section 14.21.020(D). *If the results of a Geologic Report are substantially different than the hazard designations contained in DOGAMI Open File Report 0-04-09 then the city shall provide notice to the Department of Geology and Mineral Industries (DOGAMI) and Department of Land Conservation and Development (DLCD). The agencies will have 14 days to provide comments and the city shall consider agency comments and determine whether or not it is appropriate to issue a Geologic Permit.*

The findings in the Geologic Report do not appear to conflict with the DOGAMI Open File Report. This standard is met.

- (e) NMC Section 14.21.030, Geologic Permit Required. *All persons proposing development, construction, or site clearing (including tree removal) within a geologic hazard area as defined in 14.21.010 shall obtain a Geologic Permit. The Geologic Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit required by the city. Unless otherwise provided by city ordinance or other provision of law, any Geologic Permit so issued shall be valid for the same period of time as a building permit issued under the Uniform Building Code then in effect.*

A Geologic Permit application is included in this submittal. This requirement can be met.

- (f) NMC Section 14.21.050(A), Application Submittal Requirements. *A site plan that illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8-inches dbh (diameter breast height) proposed for removal; and*

The Subdivision Plans included as Exhibit "B" of Attachment "A" include the required information. The Existing Conditions Plan on Sheet C002 shows site plan contours and existing vegetation. The Grading and Demolition Plan on Sheet C070 illustrates the area of disturbance and proposed tree removal. The Grading and Erosion Control Plan sheets C050 to C057 show erosion control measures. These requirements are met.

- (g) NMC Section 14.21.050(B), Application Submittal Requirements. *An estimate of depths and the extent of all proposed excavation and fill work; and*

The existing and finished grade contour information shown on Sheet C070 of Exhibit "B" shows the estimated depths and extent of planned excavation and fill work. This requirement is met.

- (h) NMC Section 14.21.050(C), Application Submittal Requirements. *Identification of the bluff or dune-backed hazard zone or landslide hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, a certified engineering geologist shall identify the hazard zone(s) within which development is proposed; and*

A Geologic Report for the property is included in Exhibit "G". It identifies the nature and extent of landslide risk areas on the property. This requirement is met.

- (i) NMC Section 14.21.050(D), Application Submittal Requirements. *A Geologic Report prepared by a certified engineering geologist, establishing that the site is suitable for the proposed development; and*

A Geologic Report for the property is included in Exhibit "G". This report is stamped by both a licensed Geotechnical Engineer and a certified Engineering Geologist and concludes that the site is suitable for the proposed subdivision provided recommendations contained in the document are followed. A condition of approval is recommended requiring a certified Engineering Geologist and licensed Geotechnical Engineer, as appropriate, certify the recommendations were followed prior to approval of the final plat. This requirement is met, as conditioned.

- (j) NMC Section 14.21.050(E), Application Submittal Requirements. *An engineering report, prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), must be provided if engineering remediation is anticipated to make the site suitable for the proposed development.*

A Geologic Report for the property is included in Exhibit "G". This report is stamped by both a licensed Geotechnical Engineer and a certified Engineering Geologist and includes the information required by the City for a Geologic Report. The Report concludes that the site is suitable for the planned project. This requirement is met.

- (k) NMC Section 14.21.070, Construction Limitations within Geologic Hazard Areas.

A. New construction shall be limited to the recommendations, if any, contained in the Geologic Report; and

1. Property owners should consider use of construction techniques that will render new buildings readily moveable in the event they need to be relocated; and

2. Properties shall possess access of sufficient width and grade to permit new buildings to be relocated or dismantled and removed from the site.

The Subdivision Plans (Exhibit "B") are intended to comply with the recommendations in the Geologic Report (Exhibit "G") and the new street will provide sufficient access in the event there is a need to relocate structures in the future. This requirement can be met.

(l) NMC Section 14.21.090, Erosion Control Measures.

In addition to completing a Geologic Report, a certified engineering geologist shall address the following standards.

A. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

B. Development plans shall minimize cut or fill operations so as to prevent off-site impacts;

C. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

D. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

E. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

F. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching, seeding, planting, or armoring with rolled erosion control products, stone, or other similar methods;

G. All drainage provisions shall be designed to adequately carry existing and potential surface runoff from the twenty year frequency storm to suitable drainageways such as storm drains, natural watercourses, or drainage swales. In no case shall runoff be directed in such a way that it significantly decreases the stability of known landslides or areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure.

H. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as necessary to prevent offsite erosion and sediment transport;

I. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control limited to:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas;

J. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures; and

K. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, site monitoring and clean-up activities.

The Grading and Erosion Control Plans (Sheets C050 to 057 of Exhibit "B") include appropriate grading and erosion control measures for the project and were prepared according to the recommendations in the Geologic Report (Exhibit "G"). In the event the identified erosion control measures are not maintained or are otherwise unable to prevent sedimentation from impacting adjoining surfaces, then NMC 14.21.140 requires the developer return the surfaces to their original or equal condition. A condition of approval is included noting this requirement.

- (m) NMC Section 14.21.100(E), Stormwater Retention Facilities Required. *For structures, driveways, parking areas, or other impervious surfaces in areas of 12% slope or greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities as specified by the City Engineer. The retention facilities shall be designed for storms having a 20-year recurrence frequency. Storm waters shall be directed into a drainage with adequate capacity so as not to flood adjacent or downstream property.*

Sheets C100 and C101 of Exhibit "B" illustrate that impervious surfaces established with this subdivision, namely the street and sidewalks, will not exceed a 12 percent slope. This standard is not applicable.

12. Compliance with NMC Chapter 14.33, Criteria for Approval of a Variance. The criteria for a variance to the requirement that sidewalk be installed along the hammerhead portion of the proposed street have been addressed as follows:

- (a) NMC Section 14.33.020(A). *Application for an Adjustment or Variance from a numerical standard including, but not limited to, size, height, or setback distance may be processed and authorized under a Type I or Type III decision making procedure as provided by Section 14.52, Procedural Requirements, in addition to the provisions of this section.*

A variance to Section 14.44.060.I is included in this application to allow the proposed "hammerhead" turnaround at the north end of the proposed local street to be constructed without sidewalks. This section authorizes the City to exempt this standard with a variance. A variance is included in the application. This standard is met.

- (b) NMC Section 14.33.020(B). *No Adjustment or Variance from a numerical standard shall be allowed that would result in a use that is not allowed in the zoning district in which the property is located, or to increase densities in any residential zone.*

The variance will not change the planned use of the property. The planned residential use is permitted in the R-2 zoning district in which the property is located. The standard is met.

- (c) *NMC Section 14.33.020(C). In granting an Adjustment or Variance, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.*

The variance is not anticipated to create any adverse impacts. The proposed “hammerhead” turnaround will not operate as a street that connects to the surrounding street network and will not carry through traffic at speeds typical of a local street. The turnaround is designed to allow vehicles, including emergency vehicles, to either maneuver in and out of the driveways serving the future homes on Lots 5 through 9, or turn around to leave the subdivision, all at minimal speeds. Therefore, sidewalks are not needed to provide separation from faster moving vehicular traffic. As further described in Section 14.44.060, the planned width of the turnaround is narrower than the standard width for a local street. Therefore, the crossing distances between the new sidewalks on the proposed local street to the new lots along the turnaround will be similar to, or even less than, the distance required to cross a local street, and pedestrians will not need to negotiate cross traffic typical of a local street.

- (d) *NMC Section 14.33.030, Approval Authority. Upon receipt of an application, the Community Development Director or designate shall determine if the request is to be processed as an Adjustment or as a Variance based on the standards established in this subsection. There shall be no appeal of the Director’s determination as to the type of application and decision-making process, but the issue may be raised in any appeal from the final decision on the application.*

A. A deviation of less than or equal to 10% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Community Development Director using a Type I decision-making procedure.

B. A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision-making procedure.

C. Deviations of greater than 40% from a numerical standard shall satisfy criteria for a Variance as determined by the Planning Commission using a Type III decision-making procedure.

The variance is combined with an application for a subdivision and is being processed as a Type III application. This standard is met.

- (e) *NMC Section 14.33.060(A). The approval authority may grant a Variance using a Type III decision-making process when it finds that the application complies with the following criteria:*

A. A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

- 1. The size, shape, natural features, and topography of the property, or*
- 2. The location or size of existing physical improvements on the site, or*
- 3. The nature of the use compared to surrounding uses, or*
- 4. The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district, or*
- 5. A circumstance or condition that was not anticipated at the time the Code requirement was adopted.*
- 6. The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.*

The circumstances and conditions under 1, 3, and 4 apply to the property, as described below.

1. The variance is warranted based on the size, shape, natural features, and topography of the property. The turnaround configuration shown in the Subdivision Plans is planned to provide the best practical access to the new lots. The subject property is an irregularly shaped lot with a skewed orientation to SE Bay Boulevard which poses challenges to creating buildable lots that are as close as possible to rectangular in shape and with side lots lines that are, to the maximum extent possible, perpendicular to the boundaries of the property. Adding sidewalks to the turnaround would require additional street width, and subsequently additional grading, only to provide a short stretch of sidewalk that does not connect to adjacent properties, and which is frequently interrupted by residential driveways.

The topographic conditions of the property make it impractical to include sidewalks along the “hammerhead” turnaround. As shown in the Existing Conditions on Sheet C002 of Exhibit “B”, the site slopes moderately downhill from east to west. The proposed street profile shown on Sheet C101 of Exhibit “B” show the finished grade of the street in relation to existing grade. The drawings show the depth of cuts required to construct the street with a finished grade and pitch that meet applicable standards for fire access and conform to accepted engineering guidelines. Including sidewalks would significantly increase the excavation, filling, and grading needed to construct the turnaround while providing nominal, if any benefits to pedestrian safety and comfort.

3. The variance is warranted based on the nature of the use compared to surrounding uses. The “hammerhead” turnaround does not operate as a typical street because it will not connect to other streets either inside or outside of the subdivision. It will not carry traffic volumes at speeds typical of a standard local street and will have minimal cross traffic that pedestrians will need to

negotiate to access Lots 5 through 9 from the new sidewalk on the proposed local street. Therefore, sidewalks are not necessary on the turnaround for pedestrian safety. Most of the streets in other subdivisions in the area do not have sidewalks, therefore the proposed local street, even without a sidewalk on the turnaround will be improved to a higher standard than the streets that serve surrounding uses.

4. The variance is warranted because the zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district. As discussed under criterion 1 above, including sidewalks along the turnaround would require either reducing the size of the lots below the minimum dimensional standard in the R-2 zoning district or reducing the number of lots for the planned use below what would otherwise be possible on a more regularly shaped lot with flatter topography elsewhere in the R-2 zoning district. Most of the streets in other subdivisions in the area do not have sidewalks, and so the proposed local street will be improved to a higher standard than the streets that serve surrounding uses.

Considering the above, this criterion is met.

- (f) NMC Section 14.33.060(B). *The circumstance or condition in "A" above is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.*

The circumstances and conditions are discussed in the response to Section 14.33.060.A above. These circumstances and conditions are not the result of the personal circumstance of the owner. Therefore, this criterion is met.

- (g) NMC Section 14.33.060(C). *There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.*

The practical difficulty and unnecessary hardship that would be imposed by requiring sidewalks on the "hammerhead" turnaround are discussed in the response to Section 14.33.060.A above. Requiring sidewalks along this turnaround would restrict the property from being developed to its fullest potential. Furthermore, sidewalks would not improve access for pedestrians. This criterion is met.

- (h) NMC Section 14.33.060(D). *Authorization of the Variance will not result insubstantial adverse physical impacts to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because the Code contains a separate section addressing geologic limitations.*

The variance will not create any adverse impact to surrounding properties. The turnaround will not serve as a typical through street and will not connect to the surrounding street network. The

future homes on Lots 5 through 9 will be the only uses served by the street that will generate traffic. Therefore, only the subject property is impacted by the variance. Furthermore, streets in the vicinity (such as SE Harbor Crescent Drive) that serve development on adjoining properties do not have sidewalks. With the variance, the proposed street will be improved to a higher level than what is typical of other streets in the vicinity.

- (i) NMC Section 14.33.060(E). *The Variance will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access.*

Utilities are planned as shown on the Composite Utility Plan on Sheet C150 of Exhibit "B". A variance to allow the hammerhead portion of the street to be constructed without sidewalks will not impact the provision of access to utilities since those utilities will be stubbed from the street or located in public utility easements adjacent to the street. Fire access will be available from the street. This criterion is met.

- (j) NMC Section 14.33.060(F). *Any impacts resulting from the Variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.*

The variance will not result in any impacts requiring mitigation. This criterion does not apply.

13. Compliance with NMC Chapter 14.44, Transportation Standards. Applicable provisions of the City's Transportation Standards have been addressed as follows:

- (a) NMC Section 14.44.050(A). *Street Improvement Requirements. Streets within or adjacent to a land division, development of new streets, and planned improvements to existing streets shall satisfy the requirements of Section 14.44.060, and public streets shall be dedicated to the applicable road authority.*

SE Bay Boulevard is fully improved to City standards. No further improvements to SE Bay Boulevard are necessary. New streets are planned to serve the new lots as shown on the street plan and profile views shown on Sheet C101 of Exhibit "B". A modification is requested to the applicable street standards for the "hammerhead" turnaround. A variance is included to exempt this turnaround from the sidewalk requirement in Section 14.44.060.I. This standard is met with the requested variance.

- (b) NMC Section 14.44.050(B). *Substandard streets. Substandard streets adjacent to existing lots or parcels shall be brought into conformance with the standards of Section 14.44.060 when new development or redevelopment of the lots or parcels will place additional demands on the streets and related city utilities.*

There are no substandard streets adjacent to the existing lot. This standard does not apply.

- (c) NMC Section 14.44.050(C). Neighborhood Traffic Management. *Traffic calming measures such as speed tables, curb bulb outs, traffic circles, and other solutions may be identified as required on-site or off-site improvements for development along Neighborhood Collector or Local Streets.*

The applicant acknowledges this standard, and it can be met.

- (d) NMC Section 14.44.050(D). Guarantee. *The city may accept a future improvement guarantee in the form of a cash deposit, surety bond, letter of credit or non-remonstrance agreement, in lieu of street improvements, if it determines that one or more of the following conditions exist:*

- 1. A partial improvement may create a potential safety hazard to motorists or pedestrians;*
- 2. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;*
- 3. The improvement is funded and programmed for construction in an adopted capital improvement plan; or*
- 4. The improvement is associated with an approved land partition or minor replat and the proposed land partition does not create any new streets.*

The applicant intends to complete the infrastructure improvements before submitting a final subdivision plat, and does not anticipate the need for an improvement agreement.

- (e) NMC Section 14.44.050(E). Creation of Rights-of-Way for Streets and Related Purposes. *Streets may be created through the approval and recording of a final subdivision or partition plat pursuant to Chapter 14.48; by acceptance of a deed, provided that the street is deemed in the public interest by the City Council for the purpose of implementing the Transportation System Plan and the deeded right-of-way conforms to the standards of this Code; or other means as provided by state law.*

This applicant is applying for tentative subdivision approval and has addressed the applicable street standards throughout this narrative. The criterion is met.

- (f) NMC Section 14.44.050(F). Creation of Access Easements. *The city may approve an access easement when the easement is necessary to provide viable access to a developable lot or parcel and there is not sufficient room for public right-of-way due to topography, lot configuration, or placement of existing buildings. Access easements shall be created and maintained in accordance with the Oregon Fire Code.*

The applicant is not proposing the creation of access easements. The development will be accessible by way of public rights-of-way. The public local street is further discussed in this narrative.

- (g) NMC Section 14.44.050(G). Street Location, Width, and Grade. *The location, width and grade of all streets shall conform to the Transportation System Plan, subdivision plat, or street plan, as applicable and are to be constructed in a manner consistent with adopted City of Newport Engineering Design Criteria, Standard Specifications and Details. Street location, width, and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets, pursuant to the requirements of this Chapter.*

One new street is planned for the subdivision as shown on Sheet C101 of Exhibit "B". This proposed local street is planned to meet all applicable City standards for a local street. A request to reduce the overall width of the "hammerhead" turnaround at the end of the street from the standards for a local street is included in this application. The criterion is met.

- (h) NMC Section 14.44.050(H). Transit improvements. *Developments that are proposed on the same site as, or adjacent to, an existing or planned transit stop, as designated in the Lincoln County Transit District's 2018 Transit Development Plan, shall provide the following transit access and supportive improvements in coordination with the transit service provider:*

1. Reasonably direct pedestrian and bicycle connections between the transit stop and primary entrances of the buildings on site, consistent with the definition of "reasonably direct" in Section 14.01.020.

2. The primary entrance of the building closest to the street where the transit stop is located shall be oriented to that street.

3. A transit passenger landing pad.

4. A passenger shelter or bench if such an improvement is identified in an adopted transportation or transit plan or if the transit stop is estimated by the Lincoln County Transit District to have at least 10 boardings per day.

5. Lighting at the transit stop.

6. Other improvements identified in an adopted transportation or transit plan, provided that the improvements are roughly proportional to the impact of the development.

The planned development is not adjacent to nor on the same site as a transit stop. The above criteria are not applicable.

- (i) *NMC Section 14.44.060(A). Streets, Pathways, Accessways, and Trails. Street Width and Cross Sections. Right-of-way and roadway widths shall conform to the Minimum Street Cross-Sections in the Transportation System Plan and the standards in Table 14.44.060-A.*

Minimum Right-of-Way and Roadway Widths		
Functional Classification	Minimum Right-of-Way Width	Minimum Roadway Width
Major Collector	70-ft	48-ft
Neighborhood Collector	50-ft	36-ft
Local	50-ft	36-ft
Yield Street	40-ft	24-ft
Shared Street	30-ft	16-ft ¹

¹. A 12-ft width may apply to local streets that carry fewer than 150 vehicles per day.

As shown on the Subdivision Plans in Exhibit "B", the proposed local street is planned to meet the standard for a local street with ± 36 feet of roadway width within ± 50 feet of right-of-way. A "hammerhead" turnaround is planned to also provide access to Lots 5 through 9 with ± 26 feet of pavement width within ± 30 feet of right-of-way. A request to reduce the overall width of this turnaround from the standards for a local street is included in this application. This modification is justified due to the relation of the street to the existing and planned streets, the topographical conditions on-site, public safety, the character of the roadway as a turnaround, and the proposed use of the land to be served by the street.

As shown in the Existing Conditions on Sheet C002 of Exhibit "B", the site slopes moderately downhill from east to west. The street profiles on Sheet C101 of Exhibit "B" show the finished grade of the street in relation to existing grade. The drawings show the depth of cuts required to construct the turnaround with a finished grade and pitch that meet applicable standards for fire access and conform to accepted engineering guidelines. A standard width local street as applied to this turnaround would increase the cutting, filling, and grading required to meet these standards without providing additional benefit given the use of the street.

The land served by the turnaround will be used for detached homes and/or duplexes. The turnaround will be used by the residents to maneuver at minimal speeds in and out of the driveways serving the homes on the new lots. The turnaround will not connect to the surrounding street network, other than the connection to the proposed local street as shown on the plans in Exhibit "B". The turnaround will not serve other uses outside the subject property. Therefore, the planned use will not generate traffic volumes that would warrant additional pavement width.

The size and shape to the property also make it impractical to provide buildable sites if the turnaround was built to full local street width. The subject property is an irregularly shaped lot with a skewed orientation to SE Bay Boulevard. The hammerhead configuration enables a logical and efficient plat layout with buildable lots that are as close to rectangular in shape as possible, with side lot lines that run at approximately right angles to the streets they face, while meeting the dimensional standards in the R-2 zoning district. A full local street width applied to this

turnaround would restrict the buildable sites that would otherwise be permitted on the property that meet the dimensional standards of the R-2 zoning district. With the requested variance, these standards are met.

- (j) NMC Section 14.44.060(B). *Travel Lane and On-Street Parking. Travel lanes and on-street parking areas shall be sized in accordance with the standards in Table 14.44.060-B.*

Minimum On-Street parking and Roadway Widths					
Roadway Classification	Arterial Street 1	Major Collector	Neighborhood Collector	Local Street	Yield Street 2
Through Lanes	2 to 4	2	2	2	1
Min. Lane Width	11-12 ft.3	10 ft.4	10 ft.4	10 ft.	12-16 ft.
Median/Center Turn Lane	11-14 ft 6	11 ft. 7	11 ft. 7	None	None
Min. On-Street Parking Width	Context Dependent, 7-8ft.	8 ft.	8 ft.	7-8 ft.	7-ft one side8

¹ Although guidance is provided for arterial streets, these are under State jurisdiction. Values presented in this table are consistent with ODOT's urban design guidance. For detailed design recommendations on US 101 and US 20, the identified urban contexts for Newport are provided in the appendix and ODOT's urban design guidance is publicly available.

² For use along low volume local streets in residential areas only. Yield streets are an option for new streets, while shared streets are an option for existing streets. Requires intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities. For blocks of no more than 300 ft. in length, and with fire access roads at both ends, a 16 ft. width may apply to local streets that carry fewer than 500 vehicles per day, or a 12 ft. width may apply to local streets that carry fewer than 150 vehicles per day. For blocks longer than 300 feet, this also requires 30 ft. long pullouts/no parking zones every 150 ft. to allow for 20 ft. wide clear areas (excluding drainage swales) or 26 ft. wide clear areas near fire hydrants.

³ 11 ft. travel lanes are preferred for most urban contexts within Newport. 11 ft. travel lanes are standard for central business district areas in ODOT's urban design guidance. Adjustments may be required for freight reduction review routes. Final lane width recommendations are subject to review and approval by ODOT.

⁴ Travel lanes widths of 11-12 ft. are required along designated local truck routes.

⁵ A minimum 8-ft.-wide pedestrian refuge should be provided at marked crossings. Otherwise, a median can be reduced to a minimum of 4 ft. at midblock locations that are more than 150 ft. from an arterial (i.e., US 101 and US 20), before widening at intersections for left-turn lanes (where required or needed).

⁶ ODOT's urban design guidance recommends a 14 ft. lane for speeds above 40 mph. Final lane width recommendations are subject to review and approval by ODOT.

⁷ Center turn lane required at and within 150 ft. of intersections with arterials (i.e., US 101 and US 20). Otherwise, it is optional and should be used to facilitate turning movements and/or street crossings; minimum 8-ft-wide median required where refuge is needed for pedestrian/bicycle street crossings.

⁸ On-street parking is preferred along all City streets where block spacing, and system connectivity standards are met. An 8 ft. width is required in most areas, with a 7 ft. width only allowed along local streets in residential areas.

Local yield/shared streets require intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities, with an 8 ft. width required when on only one side, and 7 ft. width allowed when on both sides. Shoulders totaling 8 ft. in collective width may also be provided in lieu of parking.

The proposed local street meets the width requirements for travel lanes and on-street parking for the site. This standard is met.

- (k) NMC Section 14.44.060(C). *If the required cross-section is wider than the available right-of-way, coordination with the City of Newport is required to determine whether right-of-way dedication is necessary or design elements can be narrowed or removed. Any modifications to the minimum street cross-section require approval pursuant to the requirements of Section 14.33.100 – Transportation Mitigation Procedure. Requests for modifications involving ODOT facilities will require review and approval by ODOT.*

The applicant is not proposing a cross section wider than the available right-of-way width. The above standard is not applicable.

- (l) NMC Section 14.44.060(D). *Reserve Strips. Reserve strips giving a private property owner control of access to streets are not allowed.*

No reserve strips are planned. This standard is met.

- (m) NMC Section 14.44.060(E). *Alignment. As far as practicable, Arterial, Collector, and Neighborhood Collector Streets shall be extended in alignment with existing streets by continuation of the street centerline. When staggered street alignments resulting in T intersections are unavoidable, they shall leave a minimum of 200 ft. between the nearest edges of the two rights-of-way. This requirement may be modified by the approval authority if topography or other conditions make it impractical to satisfy the standard.*

A new local street is planned to provide access to the new lots as shown on the Subdivision Plans in Exhibit "B". This standard applies to streets other than local streets. Therefore, this standard does not apply.

- (n) NMC Section 14.44.060(F). *Future Extensions of Streets. Proposed streets within a land division shall be extended to the boundary of the land division. A turnaround if required by the Uniform Fire Code will be required to be provided. If the approval authority determines that it is not necessary to extend the streets to allow the future division of adjoining land in accordance with this chapter, then this requirement may be modified such that a proposed street does not have to be extended to the boundary of the land division.*

A local street is planned with a "hammerhead" turnaround configuration that meets the fire access requirement. This layout was reviewed by the City of Newport in 2019. The surrounding properties are fully developed and extending the street to the property boundary is not necessary to provide access to future development. This standard is met.

(o) NMC Section 14.44.060(G). Intersection Angles.

1. *Streets shall be laid out to intersect at right angles.*
2. *An arterial intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection.*
3. *Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection.*
4. *Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line.*
5. *No more than two streets may intersect at any one point.*
6. *If it is impractical due to topography or other conditions that require a lesser angle, the requirements of this section may be modified by the approval authority. In no case shall the acute angle in Subsection G.(1.) be less than 80 degrees unless there is a special intersection design.*

As shown on the Subdivision Plans in Exhibit "B", the new local street will create an intersection that meet the above requirements. These standards are met.

- (p) NMC Section 14.44.060(H). Half Street. *Half streets are not allowed. Modifications to this requirement may be made by the approving authority to allow half streets only where essential to the reasonable development of the property, when in conformity with the other requirements of these regulations and when the city finds it will be practical to require the dedication of the other half when the adjoining property is divided or developed.*

Full-street improvements will be provided as shown in the Subdivision Plans in Exhibit "B". The boundary frontage along SE Bay Boulevard is fully improved. This standard is met.

- (q) NMC Section 14.44.060(I). Sidewalks. *Sidewalks in conformance with the city's adopted sidewalk design standards are required as outlined in the adopted Transportation System Plan and Table 14.44.060(C) below. Any modifications to the sidewalk standards require approval pursuant to the requirements of Section 14.33.100 – Transportation Mitigation Procedure. Requests for modifications involving ODOT facilities will require review and approval by ODOT.*

Sidewalks are planned on both sides of the proposed local street, as shown on the Subdivision Plans in Exhibit B. SE Bay Boulevard is already improved with sidewalks and no additional improvements are necessary beyond repairs to the existing sidewalks if damaged during construction. A variance is included with this application to exempt the "hammerhead" turnaround from the sidewalk requirement. Responses to the applicable variance criteria are provided in Section 14.33.060 above. This standard is met with the included variance.

- (r) NMC Section 14.44.060(J). Cul-de-sac. *A cul-de-sac shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turn-around meeting minimum Oregon Fire Code requirements. Modifications to this requirement may be made by the approving authority. A pedestrian or bicycle accessway may be required by easement or dedication by the approving authority to connect from a cul-de-sac to a nearby or abutting street, park, school, or trail system to allow for efficient pedestrian and bicycle connectivity between areas if a modification is approved and the requested easement or dedication has a rational nexus to the proposed development and is roughly proportional to the impacts created by the proposed land division or development.*

A cul-de-sac is not planned for this project. Therefore, this standard does not apply. Nevertheless, a hammerhead turnaround is planned at the intersection of the two local streets. It is less than 400 feet in length, and the 11 planned lots are planned to be developed with single-family homes and/or duplexes with no more than 18 total units. In the context of this standard, the reference to 18 dwelling units refers to buildings, which may be one or two unit structures.

- (s) NMC Section 14.44.060(K). Street Names. *Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city, as evident in the physical landscape and described in City of Newport Ordinance No. 665, as amended.*

The applicant notes that the street will be given a name that does not duplicate existing street names in the City of Newport. This standard can be met.

- (t) NMC Section 14.44.060(L). Alleys. *Alleys shall be provided in commercial and industrial districts. If other permanent provisions for access to off-street parking and loading facilities are provided, the approving authority is authorized to modify this provision if a determination is made that the other permanent provisions for access to off-street parking and loading facilities are adequate to assure such access. The corners of alley intersections shall have a radius of not less than 12 feet.*

The project is not in a commercial or industrial district. This standard does not apply.

14. Compliance with NMC Chapter 14.48, Criteria for Approval of the Tentative Subdivision Plat.
The criteria for a tentative subdivision plat have been addressed as follows:

- (a) NMC Section 14.48.010(A), Application Requirements. *A person seeking approval of a land division shall submit the following to the Community Development Department:*

1. *A completed city application form signed by the owner of the property or an authorized agent. If the application form is signed by an authorized agent, it must be accompanied by a document signed by the property owner authorizing the agent to act for the owner in the land division process.*

2. *A tentative plan containing the information identified in Section 14.48.010(C).*

3. *A narrative listing each applicable approval criterion or standard and an explanation as to how the criterion or standard is met.*

4. *A vicinity map showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities will be extended to connect to existing streets and utilities and may be connected to future streets and utilities.*

5. *Proposed deed restrictions, if any, in outline form.*

6. *Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.*

7. *A plan for domestic water supply lines and related water service facilities.*

8. *Proposals for sewage disposal, storm water drainage, and flood control, including profiles of proposed drainage ways.*

9. *If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.*

10. *Where geologic hazards are known to exist on part or all of the property in question based on adopted maps of the City of Newport, a geologic hazard report is required and shall be provided in accordance with the requirements of Chapter 14.21. The report must clearly state what measures will be taken to safeguard against existing hazards.*

11. *Written letters from public facilities (water, sewer, storm water, and streets) and utilities (electric and phone) identifying requirements for providing service to the land division.*

12. *An application fee in an amount set by City Council resolution.*

13. *A Trip Assessment Letter, if required by Chapter 14.43.*

14. *A Traffic Impact Analysis, if required by Chapter 14.45.*

15. *Other materials that the applicant believes relevant or that may be required by the city.*

Application forms, narrative, and Subdivision Plans containing the required information are included with the application. A Trip Assessment Letter is not needed, because the project is not in an area where they are required (i.e. South Beach). Similarly, a Traffic Impact Analysis is not required because vehicle trips generated by the subdivision are below the permit threshold (i.e. 50 pm peak hour or 500 average daily vehicle trips) These requirements are met.

- (b) NMC Section 14.48.010(B). *The tentative plan of a land division shall be drawn such that the dimensions can be verified with the standard tick marks depicted on an Engineer's or Architects scale.*

The Subdivision Plans are included in Exhibit "B". This requirement is met.

(c) NMC Section 14.48.010(C). The following general information shall be shown on the tentative plan of the land division:

1. If a subdivision, the proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the county and shall be approved by the Planning Commission.
2. Date, northpoint, and scale of the drawing.
3. Appropriate identification of the drawing as a tentative plan.
4. Location of the property being divided sufficient to define its location and boundaries, and a legal description of the entire property being divided.
5. Names and addresses of the owner, the applicant if different from the owner, and the engineer and/or surveyor.
6. The following existing conditions shall be shown on the tentative plan:
 - a. The location, widths, and names of existing streets and undeveloped rights of way within or adjacent to the tract, any existing easements, and other important features such as section lines, section corners, city boundary lines, and monuments.
 - b. Contour lines related to some established bench mark or other datum approved by the city and having minimum intervals as follows:
 - i. For slopes of less than 5 percent: show the direction of slope by means of arrows or other suitable symbols, together with not less than four (4) spot elevations per acre, evenly distributed.
 - ii. For slopes of 5 percent to 15 percent: five (5) feet.
 - iii. For slopes of 15 percent to 20 percent: 10 feet.
 - iv. For slopes of over 20 percent: 20 feet.
 - c. The location and direction of water courses and the location of areas subject to flooding.
 - d. Natural features such as wetlands, tidelands, marshes, or any natural resource identified as a protected Statewide Land Use Planning Goal 5 or Goal 17 resource on maps adopted by the city shall be identified. Other features, such as rock outcroppings, wooded areas, and isolated trees that serve as the basis of any requested modifications to the land division standards shall also be identified.
 - e. Existing uses of the property and location of existing structures to remain on the property after platting.
 - f. The location within the land division and in the adjoining streets and property of existing sewers, water mains, culverts, drain pipes, and utility lines.
7. The following information shall be included on the tentative plan of a subdivision.
 - a. The location, width, names, approximate grades, and radii of curves of proposed streets

and the relationship of proposed streets to streets shown in the Transportation System Plan. Streets in existing adjacent developments and approved subdivisions and partitions shall also be shown, as well as potential street connections to adjoining undeveloped property.

b. The location, width, and purpose of proposed easements.

c. The location and approximate dimensions of proposed lots and the proposed lot and block numbers.

d. Proposed sites, if any, allocated for purposes other than single-family dwellings.

The Subdivision Plans with the required information are included in Exhibit "B". These requirements are met.

- (d) NMC Section 14.48.010(D). *If the land division proposal pertains to only part of the property owned or controlled by the owner or applicant, the city may require a sketch of a tentative layout for streets in the undivided portion.*

This application pertains to the whole site. The above standard is not applicable.

- (e) NMC Section 14.48.020, Blocks.

A. Blocks created in land divisions shall be consistent with the standards in Table 14.48.020-A. Modifications to the standards may be made by the approving authority pursuant to the standards in Chapter 14.33 if the street is adjacent to an arterial street, the location of adjoining streets, or other constraints identified in Section 14.33.100 justify the modification.

B. Mid-block pedestrian and bicycle connections must be provided when the block length exceeds 300 feet to ensure convenient access for all users. Midblock pedestrian and bicycle connections must be provided on a public easement or right-of-way every 300 feet, unless the connection is impractical due to topography, inadequate sight distance, high vehicle travel speeds, lack of supporting land use, or other factors that may prevent safe crossing; or a rational nexus to the proposed development is not established and the connection is not roughly proportional to the impacts created by the proposed land division.

The subject property is surrounded by existing development. The proposed local street will connect to SE Bay Boulevard but will not connect to any other existing streets. No new blocks will be created with the planned subdivision. This standard does not apply.

- (f) NMC Section 14.48.025(A), Easements.

A. Utility Lines. Easements for sewers and water mains shall be dedicated to the city wherever a utility is proposed outside of a public right-of-way. Such easements must be in a form acceptable to the city. Easements for electrical lines, or other public utilities outside of the public right-of-way shall be dedicated when requested by the utility provider. The easements shall be at least 12 feet wide and centered on lot or parcel lines, except for utility pole tieback easements, which may be reduced to six (6) feet in width.

Easements meeting the above requirements will be provided as shown on the Composite Utility Plan on Sheet C150 in Exhibit "B". This standard is met.

- (g) NMC Section 14.48.025(B), Utility Infrastructure. *Utilities may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.*

The applicant notes that utilities will be provided as shown on the Composite Utility Plan on Sheet C150 in Exhibit "B". The subject property borders the Harbor Crescent Subdivision, and there may be monuments related to this subdivision in the vicinity of planned infrastructure work. Preservation of monuments can be addressed with a condition of approval. As conditioned, this standard is met.

- (h) NMC Section 14.48.025(C), Water Course. *If a tract is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.*

The subject property is not traversed by a water course. As shown on the Existing Conditions Plan on Sheet C002 in Exhibit "B", there is a recorded storm drainage easement (Doc. No. 2006-05053) along the front portion of the lot. To the extent this standard applies, it is met.

- (i) NMC Section 14.48.030(A), Size. *The size (including minimum area and width) of lots and parcels shall be consistent with the applicable lot size provisions of the Zoning Ordinance, with the following exception:*

Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

As shown on the Preliminary Plat on Sheet C003 of Exhibit "B" each new lot meets the applicable dimensional requirements in the R-2 zoning district. The subject property is not zoned or planned for business or industrial use. This standard is met.

- (j) NMC Section 14.48.030(B), Street Frontage. *Each lot and parcel shall possess at least 25 feet of frontage along a street other than an alley.*

As shown on the Preliminary Plat on Sheet C003 in Exhibit "B", each lot has at least 25 feet of frontage on the new streets. This standard is met.

- (k) NMC Section 14.48.030(C), Through Lots and Parcels. *Through lots and parcels are not allowed. Modifications may be made by the approving authority where they are essential to provide separation of residential development from major traffic arteries or adjacent*

nonresidential activities or to overcome specific disadvantages of topography and orientation. The approving authority may require a planting screen easement at least 10 feet wide and across which there shall be no right of access. Such easement may be required along the line of building sites abutting a traffic artery or other incompatible use.

The rear lot lines on Lots 1 through 4 abut SE Harbor Crescent Drive, a private street. As shown on the Existing Conditions on Sheet C002 in Exhibit "B", the lot drops steeply from the edge of SE Harbor Crescent Drive to the rear of these lots, creating natural separation from this private residential street. Functionally, these are not planned as through lots and additional screening or separation is not necessary because the private street is a low volume residential street. Therefore, a modification to this standard is necessary and warranted. This standard, as modified, is met.

- (l) NMC Section 14.48.030(D), Lot and Parcel Side Lines. *The side lines of lots and parcels shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. Modifications to this requirement may be made by the approving authority where it is impractical to do so due to topography or other conditions or when the efficient layout of the land division has the lines running as close to right angles (or radial) as practical.*

All lots run approximately at right angles to the new streets, as shown on the Preliminary Plat on Sheet C003 in Exhibit "B". This standard is met.

- (m) NMC Section 14.48.030(E), Special Setback Lines. *All special building setback lines, such as those proposed by the applicant or that are required by a geological report, which are to be established in a land division, shall be shown on the plat, or if temporary in nature, shall be included in the deed restrictions.*

All applicable setback lines are shown on the Preliminary Plat on Sheet C003 in Exhibit "B". This standard is met.

- (n) NMC Section 14.48.030(F), Maximum Lot and Parcel Size. *Proposed lots and parcels shall not contain square footage of more than 175% of the required minimum lot size for the applicable zone. Modifications to this requirement may be made by the approving authority to allow greater square footage where topography or other conditions restrict further development potential or where the layout of the land division is designed and includes restrictions to provide for extension and opening of streets at intervals which will permit a subsequent division into lots or parcels of appropriate size for the applicable zone designation.*

The minimum lot area in the R-2 zoning district is 5,000 square feet. As shown on the Preliminary Plat on Sheet C003 of Exhibit "B", the largest lot planned is $\pm 7,533$ square feet and does not exceed 175 percent of the required minimum (8,750 square feet). This standard is met.

- (o) NMC Section 14.48.030(G), Development Constraints. *No lot or parcel shall be created with more than 50 % of its land area containing wetlands or lands where the city restricts development to protect significant Statewide Land Use Planning Goal 5 or Goal 17 resources, except that areas designated as open space within a land division may contain up to 100% of a*

protected resource. Modifications to this requirement may be made by the approval authority if the approval authority determines that the proposed lot or parcel contains sufficient land area to allow for construction on the lot or parcel without impacting the resource or that a variance or other permit has been obtained to allow for impacts on the identified resource.

No wetlands or other Goal 5 or Goal 17 resources have been identified on the subject site. This standard is met.

- (p) NMC Section 14.48.030(H), Lots and Parcels within Geological Hazard Areas. *Each new undeveloped lot or parcel shall include a minimum 1000 square foot building footprint within which a structure could be constructed and which is located outside of active and high hazard zones and active landslide areas (See NMC Chapter 14.21 for an explanation of hazard zones). New public infrastructure serving a lot or parcel shall similarly be located outside of active and high hazard zones and active landslide areas.*

The subject property is within a Geologic Hazard Area. However, the site does not contain any active landslide areas or active and high hazard zones, as documented in the Geotechnical Report in Exhibit "G". This standard is met.

- (q) NMC Section 14.48.035(A)(1), Streets. *All streets, including alleys, within the land division, streets adjacent but only partially within the land divisions, and the extension of land division streets to the intersecting paving line of existing streets with which the land division streets intersect, shall be constructed in accordance with the standards set forth in Chapter 14.44. Street width standards may be adjusted subject to the provisions of Section 14.33.070.*

Project compliance with relevant standards contained in NMC Chapters 14.44 and 14.33 has been addressed earlier in the report. This standard will be met.

- (r) NMC Section 14.48.035(A)(2) Surface Drainage and Storm Sewer System. *Drainage facilities shall be provided within the land division and to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage within the land division shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the land division and to allow extension of the system to serve such areas.*

Drainage and stormwater management will be provided as shown on the Composite Utility Plan on Sheet C150 in Exhibit "B". It shows storm drainage from the street and lots being directed to City storm drainage infrastructure along Bay Boulevard. Since the 2018 approval, the applicant has refined the design in coordination with the Newport Public Works Department. That work included the hydraulic analysis needed to confirm that the downstream piped system has capacity to accept the additional flows (ref: Attachment "F"). This standard has been met.

- (s) NMC Section 14.48.035(A)(3), Sanitary Sewers. *Sanitary sewers shall be installed to serve each lot or parcel in accordance with standards adopted by the City, and sewer mains shall be installed in streets as necessary to connect each lot or parcel to the city's sewer system.*

Sanitary sewers will be installed to serve each lot as shown on the Composite Utility Plan on Sheet C150 in Exhibit "B". This standard is met.

- (t) NMC Section 14.48.035(A)(4), Water. *Water mains shall be installed to allow service to each lot or parcel and to allow for connection to the city system, and service lines or stubs to each lot shall be provided. Fire hydrants shall be installed as required by the Uniform Fire Code. The city may require that mains be extended to the boundary of the land division to provide for future extension or looping.*

Water connections will be provided to each lot as shown on the Composite Utility Plan on Sheet C150 in Exhibit "B". As noted in a June 4, 2018 letter, the City Engineer at the time indicated that the public portion of the water system serving this subdivision will need to be looped between SE Bay Blvd and Harbor Crescent Drive and the 2-inch line along SE Bay Blvd replaced, in order for there to be adequate service to the lots (Attachment "F"). Applicant's Sheet C150 reflects those requested changes. A fire hydrant is shown on the plans; however, the Fire Department will need to confirm that its placement conforms to fire code requirements. There is ample area along the proposed street to locate hydrants; therefore, it is feasible to defer exact placement to a condition of approval. This standard is met, as conditioned.

- (u) NMC Section 14.48.035(A)(5), Sidewalks. *Sidewalks. Required sidewalks shall be constructed in conjunction with the street improvements except as specified below:*

a. Delayed Sidewalk Construction. Where sidewalks are designed contiguous with the curb in residential areas, the subdivider may delay the placement of concrete for the sidewalks until such time as driveway aprons are established and constructed on individual lots. In such cases, sidewalks shall be installed and accepted by the city engineer prior to issuance of a certificate of occupancy.

Sidewalks are planned as shown on the street plans provided in Exhibit "B". The Applicant notes that they do not anticipate delaying sidewalk construction. This standard is met.

- (v) NMC Section 14.48.035(B), Public Improvement Procedures.

In addition to other requirements, public improvements installed by a developer that is dividing land, whether required or voluntarily provided, shall comply with this chapter, and with any public improvement standards or specifications adopted by the city. The following procedure shall be followed:

1. Improvement work, including excavation in the excess of 100 cubic yards, shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans shall be required before approval of the tentative plan of a subdivision or partition.

2. Improvement work shall not commence until after the city is notified, and, if work is discontinued for any reason, it shall not be resumed until after the city is notified.

3. *Public improvements shall be constructed under the inspection and to the satisfaction of the city engineer. The city may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.*

4. *Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements.*

5. *A map showing public improvements as built shall be filed with the city upon completion of the improvements.*

6. *Public improvements shall not be commenced until any appeals of the subdivision approval are resolved.*

The applicant notes that all public improvements shown in the Subdivision Plans are intended to comply with applicable City standards. Further, applicant acknowledges the above procedural requirements. The standards can be met.

(w) NMC Section 14.48.040, Adequacy of Public Facilities and Utilities.

A. *Tentative plans for land divisions shall be approved only if public facilities and utilities (electric and phone) can be provided to adequately service the land division as demonstrated by a written letter from the public facility provider or utility provider stating the requirements for the provision of public facilities or utilities (electric and phone) to the proposed land division:*

B. *For public facilities of sewer, water, storm water, and streets, the letter must identify the:*

1. *Water main sizes and locations, and pumps needed, if any, to serve the land division.*

2. *Sewer mains sizes and locations, and pumping facilities needed, if any, to serve the land division.*

3. *Storm drainage facilities needed, if any, to handle any increased flow or concentration of surface drainage from the land division, or detention or retention facilities that could be used to eliminate need for additional conveyance capacity, without increasing erosion or flooding.*

4. *Street improvements outside of the proposed development that may be needed to adequately handle traffic generated from the proposed development.*

Service provider letters with the required information are included in Attachment "A," Exhibit "E" and Attachment "F". This standard is met.

- (x) NMC Section 14.48.045(A), Underground Utilities and Service Facilities, Undergrounding. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service.

The Applicant intends to coordinate with service providers to underground utilities as necessary. This standard can be met.

- (y) NMC Section 14.48.45(B), Underground Utilities and Service Facilities, Non-City-Owned Utilities. As part of the application for tentative land division approval, the applicant shall submit a copy of the preliminary plat to all non-city-owned utilities that will serve the proposed subdivision. The subdivider shall secure from the non-city-owned utilities, including but not limited to electrical, telephone, cable television, and natural gas utilities, a written statement that will set forth their extension policy to serve the proposed land division with underground facilities. The written statements from each utility shall be submitted to the city prior to the final approval of the plat for recording.

Service provider letters from non-city-owned utilities are included in Exhibit "E". The layout for the subdivision was shared with these providers. This standard is met.

- (z) NMC Section 14.48.055(A), Miscellaneous, Street Lights. Street lights are required in all land divisions where a street is proposed. The city may adopt street light standards. In the absence of adopted standards, street lights shall be placed in new land divisions to assure adequate lighting of streets and sidewalks within and adjacent to the land division.

Street lights are planned as shown on the Composite Utility Plan on Sheet C150 of Exhibit "B". This standard is met.

- (aa) NMC Section 14.48.055(B), Miscellaneous, Street Signs. Street name signs, traffic control signs and parking control signs shall be furnished and installed by the city.

The Applicant acknowledges this standard. This standard can be met.

- (bb) NMC Section 14.48.055(C), Miscellaneous, Monuments. Upon completion of street improvements, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.

The Applicant has indicated that they understand that this standard must be met and intend to comply with it. The standard is advisory and has been included as a condition of approval.

- (cc) NMC Section 14.48.055(D), Miscellaneous, Exceptions for Planned Developments. *The standards and requirements of this Chapter may be modified without an adjustment or variance for planned developments.*

The property is not within a planned development. The above standard does not apply.

- (dd) NMC Section 14.48.055(E), Adjustment or Variances. *Adjustments or variances to this chapter not otherwise allowed by modification within this chapter are subject to the standards and procedures for set forth in Chapter 14.33. Notice of the adjustment or variance request may be included in the legal notice for the hearing on the tentative plan for a subdivision or may be provided separately.*

The applicant notes that they have applied for a variance and provided responses to the standards set forth in Chapter 14.33 above. The public hearing notice references the applicant's variance request (Attachment "D"). This procedural requirement is met.

- (ee) NMC Section 14.48.055(F), Miscellaneous, Standards in Effect after Subdivision Approval. *The land use standards in effect at the time of a subdivision approval apply to all applications for land use approval within the subdivision filed within 180 days of the subdivision approval. After that time, the land use standards in effect at the time the land use application is deemed complete shall apply to the land use application.*

The applicant notes that they are aware of this procedural requirement.

15. Response to testimony provided at the public hearing.

(a) Testimony received at the March 27, 2023 public hearing came from individuals that reside in the adjoining Harbor Crescent Subdivision. They are concerned that the project will destabilize slopes supporting their residential development to the east, and wanted assurances that the firm that prepared the Geologic Report, Foundation Engineering Inc., will oversee the site work. A condition of approval is included with this decision requiring a certified engineering geologist certify that site grading, utility installation, street construction, and other required improvements were completed in line with the recommendations outlined in the Geologic Report. Such certification is required prior to recording of the final plat. If mitigation measures involve engineering solutions prepared by a licensed professional engineer, then the City must also receive an additional written statement of compliance by the design engineer before the plat can record. Such condition should ensure that Foundation Engineering Inc. will monitor the site work so that it adheres to their recommendations.

(b) Another concern raised at the public hearing relates to whether or not geologic reports will be required for development of homes on the newly created lots. The Geologic Report addressed herein covers the installation of the subdivision. It does not extend to development of the individual lots. The property is within a mapped geologic hazard area. Assuming that does not

change, then geologic permits, and associated reports, will be required to guide the residential construction.

(c) Lastly, a concern was raised related to the length of time that the new lots may sit vacant and erosion that could occur on those properties during that time. The Geologic Report includes recommendations that the contractor stabilize exposed slopes once the subdivision site work is finished. This is typically accomplished with a mix of native grasses to establish ground cover to limit the risk of erosion. If erosion occurs nonetheless, then the City has authority to enforce its ordinances to remedy the situation.

(d) Considering the above, the Planning Commission finds that the applicant has reasonably addressed concerns with the project that came to light as a result of public testimony.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request as presented in the application materials complies with the criteria established for approval of a tentative subdivision plan, geologic permit, and variance; and the request is hereby **APPROVED** with the conditions listed below.

1. It shall be the responsibility of the property owner to adhere to the recommendations contained in the Geotechnical Investigation for Fisherman's Wharf Estates, prepared by Foundation Engineering Inc., dated February 14, 2023 (the "Geologic Report").
2. Certification of land division compliance with the Geologic Reports (e.g. site grading, street and utility installations, etc.) is required prior to approval of the final plat. NMC 14.21.130 states that no development requiring a Geologic Report shall receive final approval until the city receives a written statement by a certified engineering geologist indicating that all performance, mitigation, and monitoring measures contained in the report have been satisfied. If mitigation measures involve engineering solutions prepared by a licensed professional engineer, then the city must also receive an additional written statement of compliance by the design engineer.
3. Any sedimentation caused by stripping vegetation, grading, or other development, shall be removed from all adjoining surfaces and drainage systems and the affected areas returned to their original or equal condition prior to final plat approval.
4. Water, sewer, street and storm drainage infrastructure shall be installed as shown on the subdivision plans prepared by AKS Engineering and Forestry, LLC, stamped received by the City of Newport on September 23, 2019 and the February 14, 2023 Geotechnical Investigation by Foundation Engineering, including dedication of appurtenant easements. All public improvements shall be accepted by the Public Works Department prior to approval of the final plat for recording.
5. All public improvements shall be designed and built to design standards adopted by the City. Until such time as a formal set of public works design standards is adopted, improvements shall conform to any existing published set of standards designated by the City Engineer for the type of improvement.

6. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service.
7. Fire hydrant(s) are to be installed as required by the 2019 Oregon Fire Code. Such hydrant(s) shall be located within public rights-of-way or public utility easements.
8. The applicant shall confirm the location of survey monuments for the Harbor Crescent Subdivision, where it borders the subject property, and shall ensure that site utilities are placed more than one foot away from said monuments.
9. Upon completion of street improvements, the applicant shall ensure that monuments are reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.
10. Installation of public improvements, including excavation in the excess of 100 cubic yards, shall not occur until plans have been checked for adequacy and approved by the City, and shall not be commenced until after the City is notified.
11. All public improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. The City may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
12. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements.
13. A map showing public improvements "as-builts" shall be filed with the city upon completion of the improvements.
14. A final plat shall be submitted within two years of the tentative plat (i.e. concept map) approval. The developer shall finalize the survey, secure the signatures on the plat from all impacted owners, and prepare necessary conveyance documents to ensure that the lot configuration, ownership, and rights-of-way are established as illustrated on the tentative plat. The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor.

PLANNING STAFF REPORT

Case File No. 2-CUP-23

- A. **APPLICANT:** Dustin Capri, AIA, Capri Architecture (South Beach Church, owner).
- B. **REQUEST:** Application for approval of a Conditional Use Permit to construct a 19,895 sq. ft. church and 50 student private school.
- C. **LOCATION:** North of SE Harborton Street approximately 1,100 feet east of the SE 40th Street and US 101 intersection.
- D. **LEGAL DESCRIPTION:** Assessor's Map 11-11-17-DD, Tax Lots 01201 and 01400.
- E. **LOT SIZE:** 11.98 acres.
- F. **STAFF REPORT**
 - 1. **REPORT OF FACT**
 - a. **Plan Designation:** High Density Residential.
 - b. **Zone Designation:** R-3/"Medium Density Residential."
 - c. **Surrounding Land Uses:** A wetland separates the property from mixed residential uses to the north. Light industrial uses exist downslope to the west. Undeveloped residential property is situated to the south and land to the east is forested and outside the city limits.
 - d. **Topography and Vegetation:** The central portion of the property is relatively flat, with steep slopes forming the west, north and east sides of the site. The property is forested with understory vegetation.
 - e. **Existing Structures:** None.
 - f. **Utilities:** Water and wastewater service can be extended into the property from SE 40th Street via an existing curb cut in the SE Chestnut Street right-of-way (southwest corner of the property).
 - g. **Development Constraints:** None.
 - h. **Past Land Use Actions:** File No. 3-AX-22/7-Z-22 – Approved the annexation of the subject property into the Newport city limits with R-3/"Medium Density Residential" zoning.
 - i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on March 15, 2023, and notice of the public hearing was published in the Newport News-Times on March 31, 2023 (Attachment "P").

j. **Attachments:**

Attachment "A" – Application Form
 Attachment "B" – Lincoln County Assessor Property Record Card
 Attachment "C" – Lincoln County Assessor Map
 Attachment "D" – Applicant's Business Plan
 Attachment "E" – Applicant's Narrative
 Attachment "F" – Acoustic Recommendations, Team Wilson Media, dated 2/2/23
 Attachment "G" – Trip Assessment Letter, Civil West Engineering, dated 3/8/23
 Attachment "H" – Figure 1: Existing Conditions Map, Civil West, dated Feb. 2023
 Attachment "I" – Figure 2: Site Plan, Civil West, dated Feb. 2023
 Attachment "J" – Exterior Building Elevations, by Capri Architecture
 Attachment "K" – Building Entry Rendering, by Capri Architecture
 Attachment "L" – Building Floorplan, by Capri Architecture
 Attachment "M" – Building Sign Concepts, by Capri Architecture
 Attachment "N" – City Terrain and Utility Map
 Attachment "O" – Public Comments
 Attachment "P" – Public Hearing Notice

2. **Explanation of the Request:** The applicant intends to construct a 19,895 sq. ft., single story building for use as a church and private school for up to 50 students. The building and its attendant parking areas will be constructed on the southern portion of Tax Lot 1400 (9.0 acres) facing SE 40th Street (Attachment "D"). A small portion of the parking area will extend onto Tax Lot 1201 (2.98 acres) with the balance of that property remaining undeveloped. Vehicle access will occur via a private driveway that extends into the site from an existing road approach at the intersection of SE 40th Street and an undeveloped section of SE Chestnut Street right-of-way. The applicant has identified the northerly 100 – 132-ft of Tax Lot 1400 as a proposed conservation and trail easement. The easement would abut city-owned property to the north where there is a large, natural wetland.

Per Newport Municipal Code (NMC) Section 14.03.050(E)(8), religious institutions/places of worship (i.e. churches) are conditional uses in an R-3/"Medium Density Residential" zone district. The private school, child care, and group activities within the buildings sanctuary/meeting rooms, religious or otherwise, are uses customarily accessory to a church use and will be permitted if this conditional use application is approved (NMC 14.03.050(C)).

In their business plan, the applicant notes that the building will be used for worship services on Sunday mornings, with the potential to add Sunday evening service in the future. The space will also host various small group studies, including Men's and Women's Bible Studies and Youth Groups, typically held in the evenings. During the weekdays, the majority of the space will be occupied by the upper grades at South Beach Christian School. South Beach Christian School operates Monday through Thursday, with classes taking place from 8:30am to 3:15pm (Attachment "D").

3. **Evaluation of the Request:**

- a. **Comments:** Twenty-four (24) comments were received in response to the notice. All are in favor of the application, with individuals expressing how South Beach Church has influenced their lives or the broader community in a positive way. None of the comments received relate to approval criteria for a conditional use permit.

b. **Conditional Use Criteria (NMC Chapter 14.34.050):**

- (1) The public facilities can adequately accommodate the proposed use.
- (2) The request complies with the requirements of the underlying zone or overlay zone.
- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

c. **Staff Analysis:**

To grant the permit, the Planning Commission must find that the applicant's proposal meets the following criteria.

(1) **The public facilities can adequately accommodate the proposed use.**

In their narrative, the applicant points out that they have met with city staff to review the site conditions and ensure the public infrastructure and facilities were adequate to accommodate the proposed development. They note that water and wastewater service can be extended into the property from SE 40th Street via an existing curb cut in the SE Chestnut Street right-of-way which is in the SW corner of the property. Additionally, the applicant indicates that South Beach Church has engaged the consulting firm Civil West Engineering to develop a comprehensive stormwater management plan for the site that accounts for impervious surfaces, including the building and parking lot areas. The applicant asserts that storm drainage can be managed adequately. Lastly, the applicant notes that South Beach Church has engaged with Central Lincoln PUD to confirm the electrical requirements for the new facility will have adequate power access on site (Attachment "E").

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available along SE 40th/Harborton Street. Water service is available via an 8-inch line stubbed to the southwest corner of the property. along SW 35th Street. Wastewater service is available from an 8-inch main along SE 40th/Harborton. The applicant/owner will be responsible for extending the services into the property. The property drains to the north and west and there is ample area for the construction of a swale to detain run-off and restrict its release to what would historically be discharged off the property. Runoff will not be piped to the wetland, and any concentrated flows will have to first cross the subject property allowing for filtering of pollutants. The location of public services relative to the applicant's property is depicted on a terrain and utility map (Attachment "N").

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate the use.

(2) The request complies with the requirements of the underlying zone or overlay zone.

The applicant notes that R-3 zoning has been applied to the property, and that their client intends to construct a new church facility that will also serve as a private school. They point out that per the Newport Municipal Code 14.03.050, Religious Institutions/Places of Worship are allowed conditionally in the City of Newport's four residential zones, including the R-3 zoning of the recently annexed South Beach Church property.

Compliance with the underlying zone or overlay zone includes other elements of the Zoning Ordinance applicable to the proposed use. This includes satisfying height limitations (NMC Chapter 14.10), setback requirements (NMC Chapter 14.11), density limitations (NMC Chapter 14.13), parking and loading requirements (NMC Chapter 14.14), clear vision areas (NMC Chapter 14.17), landscaping standards (NMC Chapter 14.19), south beach transportation overlay zone (NMC Chapter 14.43), transportation standards (NMC Chapter 14.44), traffic impact analysis (NMC Chapter 14.45), vehicular access and circulation (NMC Chapter 14.46) and pedestrian access (NMC Chapter 14.47).

The applicant notes that the building is being designed in accordance with the land use standards that apply to the R-3 zone. They point out that the property is 11.98 acres or 521,849 sq. ft. in size and that the building footprint is 19,895 sq. ft., which results in a lot coverage of approximately 3.8%. (ref: site plan, Attachment "I"). This is well under the allowed R-3 lot coverage of 60%. The front, side and rear yard setbacks are all in considerable excess of the zoning standards. The architectural elevations illustrate that the building is 34 '6" at the highest point of the structure, complying with the 35' maximum building height zoning requirement (Attachment "J"). The applicant further notes that they are prepared to ensure that the new building and site improvements comply with the parking requirements, building height, lot coverage, building setbacks, bicycle storage, and landscaping standards of the Newport Municipal Code.

Applicant's site plan and elevation drawings (Attachments "I" and "J") and a trip assessment memo from Civil West Engineering (Attachment "G") illustrate that the project substantially conforms to these requirements; however, there are few areas where the Commission may want to require additional information, as follows:

Section 14.14.030, sets out the amount of off-street parking required for various uses. For religious organizations, one parking space is required for every 4 seats in the main auditorium (sanctuary). There are 147 parking spaces depicted on the applicant's site plan, which will accommodate seating for 588 individuals in the sanctuary. The applicant's floor plan includes a seating arrangement that conforms to this requirement (Attachment "I"). This is not fixed seating, as the sanctuary is a flex assembly area where the seating can be arranged to best accommodate specific events or be pulled

entirely so the space can be used for basketball or related activities. A sanctuary of this size (over 7,100 sq. ft.) will have an occupancy load of over 1,000 people for concentrated seating or even higher for standing space (ref: Table 1004.5, 2019 Fire Code). It is not unreasonable for the Planning Commission to expect that there will be occasional events at the church that take full advantage of the building occupancy. When that happens, there will likely be a demand for more vehicle parking than is being provided. Given that there is an intervening, privately owned property, attendees may look to park there, or along SE 40th Street where the shortest walking distance would have them crossing the private property to get to the church building. The applicant has also designed their drive isle such that it directs vehicles toward the private property. Considering the above, it would be reasonable for the Commission to require the applicant show on their plans how overflow parking would be accommodated on their property so as to not impact the neighboring parcel. As this is not required parking, the overflow areas need not be surfaced. Additionally, the drive isle directing vehicles toward the private property should be cordoned off so it is clear that vehicles cannot use that property for parking.

Section 14.14.050 requires that accessible and electric vehicle parking be provided consistent with the Oregon Structural Specialty Code. The location of accessible parking is shown on the site plan; however, it is not clear how the electrical vehicle requirements will be met. Per ORS 455.417 (HB 2180) this project will be required to address the electrical service and conduit needs for at least 20 percent of the required parking.

Section 14.14.070 includes the City's bicycle parking requirements. Six spaces will be required for a project of this size. In their narrative, the applicant indicates that they intend to comply with this standard; however, it is not clear on the plans where the spaces will be located. The Commission might want to impose a condition of approval requiring that the location and type of bicycle parking be illustrated on the building plans.

Section 14.14.090(E) of the parking chapter requires that lighting from parking lots be designed and located as to not glare onto neighboring residential properties. The closest residential property is immediately to the south, roughly 10-feet from where the applicant intends to construct parking. It would be reasonable for the Commission to find that this is close enough that the applicant needs to show on their plans where lighting will be placed and how it will be oriented to avoid glare onto this property. It is clearly feasible that a compliant lighting plan can be provided given the amount of land area the applicant has to work with; therefore, it would be appropriate to list this as a condition of approval to be addressed on the building plans.

Landscaping standards for parking areas are listed in NMC Section 14.19.050(D)). The applicant's site plan illustrates that it is feasible for the project to satisfy these requirements; however, additional information will be needed to demonstrate that the standards will be met. For example, a minimum of one tree for every 12 parking spaces must be planted over and around the parking area (Section 14.19.050(D)(1)). That amounts to 13 trees. The site plan currently shows 10. A landscaping plan will need to be provided to show that the selected trees, shrubs and ground cover in and

around the parking area is likely to result in at least 50 percent of the landscape area being covered with living plants within 2 years (Section 14.19.050(D)(3)). The plan will need to show wheel stops in stalls internal to the parking area and that a curb or other physical barrier will be installed along its edges (Section 14.19.050(D)(4)). Lastly, the edge of the parking area, namely along the south property line, will need to include a low wall or hedge to minimize vehicle headlights shining onto the adjacent residential property (Section 14.19.050(D)(6)). These details can be deferred to a condition of approval.

NMC Chapter 14.44 Section 14.44.050(A) applies to public or private transportation facilities, such as roads, sidewalks, etc. The applicant's site plan shows that the property has limited public street frontage (Attachment "I"). They intend to utilize an improved road approach at the intersection of SE 40th Street and unimproved SE Chestnut Street right-of-way as the means of accessing the property. City plans call for a trail to be extended from the improved section of SE Chestnut Street, north of the applicant's property, south to the Wilder Planned Development. It is identified as project "T-O: Chestnut Street Open Space Trail" in the 2019 Parks System Master Plan and would include a nature walk with interpretive signage and viewing areas of the wetland. It would also serve as a tsunami evacuation route from low lying areas to the north up to the assembly area at the Oregon Coast Community College. The applicant has expressed a willingness to accommodate a portion of the trail improvements on their property, showing a proposed conservation and trail easement along the north end of Tax Lot 1400 and a 10-foot trail in a north-south alignment parallel to the undeveloped Chestnut Street right-of-way. The applicant's project is not driving the need for these trail improvements; therefore, it would be inappropriate to require them as a condition of approval of this permit application. The applicant and City can negotiate installation of the improvements independent of this permit application with a trail that would be designed consistent with the requirements of NMC Chapter 14.44.

With respect to whether or not the project triggers the City's traffic analysis requirements, Section 14.45.010(C) requires the analysis for proposals that generate 500 or more average daily trips or 50 PM peak hour trips. The trip assessment letter from Civil West Engineering Services (Attachment "G") shows that the project will generate no more than 18 PM peak hour trips. It is further expected that the project will generate 305 average daily trips per the Institute of Transportation Engineers (ITE) formula. Accordingly, traffic impact analysis is not required. The applicant's trip assessment letter further establishes that the number of PM peak hour trips will not exceed the amount available in Transportation Analysis Zone (TAZ) Area "H" which has 194 PM peak hour trips available for use. NMC Section 14.43.080(A) prohibits approval of development that exceeds the available trip budget in a TAZ. The TAZ program is specific to South Beach and is intended to ensure that the planned transportation system is sufficient to serve future land use needs (NMC 14.43.010).

It would be reasonable for the Planning Commission to find that it is feasible the applicant can modify their proposal to address the issues outlined above and that a revised plan be provided with building permit application. Conditions of approval for each item are included below and, as conditioned, the Commission could conclude that this conditional use criterion has been satisfied.

- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

The applicant asserts that the proposed new construction will have no adverse impacts on the nearby properties. They point out that the site is a relatively flat site with steep slopes forming the west, north and east side. The property is heavily forested. A northern wetland separates the subject property from mixed residential uses to the north. To the west there is light industrial uses. To the south there is undeveloped residential property. Lastly, the land to the east is heavily forested and outside of the city limits.

The applicant states that the proposal addresses all parking requirements per the Newport Municipal Code, including the new landscaped parking requirement which will provide an aesthetic buffer from the public street. All parking will be managed on site. They note that the street infrastructure can accommodate the building loading through the trip budget program, and that use of the building will be consistent with many residential neighborhoods throughout Newport that have religious facilities and schools within close proximity.

The applicant further points out that it is the intent of the Church to be a positive contributor to the dynamic residential and commercial development of the neighboring Wilder property. They note that the structure will comply with all requirements of the Oregon Structural Specialty Code which protect air quality and noise. The applicant acknowledges that noise and acoustics have been a challenge in the South Beach Church's current location located at 3335 South Coast Highway. Considerable care has gone into ensuring that there will be no noise concerns in the new proposed building. South Beach Church has engaged the acoustic specialist, Team Wilson Media, which has provided a detailed mitigation strategy memo which is attached in this document. There are layout considerations, treatment considerations, and system design considerations that are outlined in considerable detail in the memo. With the expertise of Wilson Media and the planned building design, South Beach Church is confident that the new facility will not have negative acoustic concerns for the neighboring properties.

The applicant asserts that the new modernized church facility will benefit the surrounding residential, commercial, and industrial uses and will not have any adverse impacts. They further believe that, overall, the project will contribute to the thriving neighborhood in South Beach.

Potential for vehicle/pedestrian trespass and parking lot lighting impacts on the adjacent, undeveloped Wilder residential property are addressed in the previous finding. Provided the proposed conditions of approval are imposed, those impacts should be adequately ameliorated. Noise impacts attributed to music at the church could have adverse impact on existing residential properties in the area. As the applicant points out, it has been an issue at their existing location where the facility was not designed with a church use in mind. The applicant points out that the new

church building can be designed in a manner that minimizes acoustic impacts associated with the end use, and it would be reasonable for the Commission to impose a condition of approval requiring the recommendations of their acoustics consultant, Wilson Media, be followed (Attachment "F").

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

The applicant notes that they have established that church building will comply with all height requirements, setbacks and zoning standards of the Newport Municipal Code for the R-3 zone. They further point out that the City of Newport, and South Beach in specific, have an eclectic design style with various building types that contribute to the overall experience of the community. The new building will utilize similar materials as many of the buildings in the neighborhood with a dark metal siding that allows the structure to blend in with the dense surrounding trees. A large timber entry has been incorporated into the design with the intent of simulating the large surrounding trees and providing warmth to an inviting entry for the new facility. The applicant notes that South Beach Church has proven their commitment to serving the community of Lincoln County and welcoming all people for worship and education.

A single story structure of this size is comparable in scale to facilities now in place at the nearby Oregon Coast Community College and, as yet to be built dormitory housing the Planning Commission approved for Oregon State University on property south of the applicant's site (File No. 1-PD-18). It would be reasonable for the Commission to conclude that the proposed church, illustrated on the applicant's site plan and exterior architectural elevations (Attachments "I" and "J"), is consistent with these examples in terms of its size and height.

Signage proposed by the applicant, and illustrated in Attachment "M", exceeds the size limitation for signs in an R-3 zone district, and the more generous sign provisions for religious institutions and schools. Under the City's sign code, each religious institution is allowed to have a sign that does not exceed 48 square feet in area, including each face of a multiple faces sign. No single sign face can exceed 24 square feet (NMC Section 10.10.060(B)). An educational institution is allowed a reader board not to exceed 32 square feet in area (NMC Section 10.10.060(C)). It is feasible that the signage can be adjusted to conform with this requirement, and City review and approval of a sign permit is an appropriate mechanism for confirming compliance. Alternatively, the applicant can seek a sign variance via separate land use application.

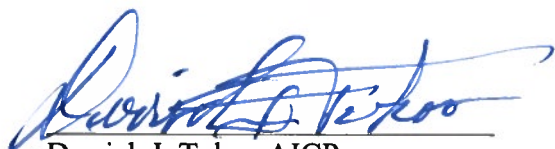
Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.

G. **STAFF RECOMMENDATION:** As outlined in this report, this application for a 19,895 sq. ft. church and 50 student private school can satisfy the approval criteria for a conditional use provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Applicant shall provide an updated set of plans with the building permit submittal that demonstrates the following requirements have been satisfied:
 - a. The applicant shall identify how overflow parking will be accommodated on the subject property. As this is not required off-street parking, the overflow areas need not be surfaced. Additionally, the drive isle directing vehicles toward the private property to the south shall be cordoned off so it is clear that vehicles cannot use that property for parking purposes (NMC 14.34.050(C)).
 - b. Consistent with Newport Municipal Code (NMC) Section 14.14.050, electric vehicle charging infrastructure shall be provided consistent with the Oregon Structural Specialty Code, including rules implementing HB 2180 (2021).
 - c. A minimum of six (6) bicycle parking spaces shall be provided in accordance with the standards set forth in NMC Section 14.14.070.
 - d. Light fixture details shall be provided, and pole placement locations identified, to establish that exterior lighting of parking areas will not glare onto neighboring residential properties (Section 14.14.090(E)).
 - e. The applicant shall establish that the City's landscaping standards for parking areas will be satisfied as provided in NMC Section 14.19.050(D). This includes the requirement that a minimum of one tree be planted for every 12 parking spaces (Section 14.19.050(D)(1)); that a landscaping plan shows the selected trees, shrubs and ground cover in and around the parking area will likely result in at least 50 percent of the landscape area being covered with living plants within 2 years (NMC Section 14.19.050(D)(3)); that wheel stops will be installed in stalls internal to the parking area and that a curb or other physical barrier will be installed along its edges (Section 14.19.050(D)(4)); and that the edge of the parking area, namely along the south property line, will include a low wall or hedge to minimize vehicle headlights shining onto adjacent residential property (NMC Section 14.19.050(D)(6)).

3. A sign permit shall be obtained establishing that the signs for the church and school comply with the requirements of Chapter 10.10 of the Newport Municipal Code, or the applicant may seek a variance to those standards as provided in NMC Section 10.10.130.



Derrick I. Tokos AICP
Community Development Director
City of Newport

April 5, 2023



City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
Dustin Capri, AIA (Capri Architecture)	South Beach Church
Applicant Mailing Address:	Property Owner Mailing Address:
747 SW 13th Street, Newport, OR	PO Box 950, Newport, OR
Applicant Phone No.	Property Owner Phone No.
541-961-0503	541-272-3377
Applicant Email	Property Owner Email
dustin@capriarchitecture.com	southbeachchurch@gmail.com
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
Dustin Capri, AIA (Capri Architecture)	
Authorized Representative Mailing Address:	
747 SW 13th Street, Newport, OR	
Authorized Representative Telephone No.	
541-961-0503	
Authorized Representative Email. <u>dustin@capriarchitecture.com</u>	

Project Information

Property Location: <i>Street name if address # not assigned</i>	
SE 40th Street	
Tax Assessor's Map No.: 11-11-17-DD	Tax Lot(s): 01400, 01201
Zone Designation: R-1,UGB	Legal Description: <i>Add additional sheets if necessary</i>
Comp. Plan Designation: high-density residential Lots 01201 and 01400 of the S.E. 1/4, of 1	

Brief description of Land Use Request(s):

Examples:

1. Move north property line 5 feet south
2. Variance of 2 feet from the required 15-foot front yard setback

Construct new Church with School

Existing Structures: if any

None

Topography and Vegetation:

Trees, Natural Vegetation

Application Type (please check all that apply)

- | | | |
|---|---|--|
| <input type="checkbox"/> Annexation
<input type="checkbox"/> Appeal
<input type="checkbox"/> Comp Plan/Map Amendment
<input checked="" type="checkbox"/> Conditional Use Permit
<div style="margin-left: 20px;"> <input checked="" type="checkbox"/> PC
 <input type="checkbox"/> Staff </div> <input type="checkbox"/> Design Review
<input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Interpretation
<input type="checkbox"/> Minor Replat
<input type="checkbox"/> Partition
<input type="checkbox"/> Planned Development
<input type="checkbox"/> Property Line Adjustment
<input type="checkbox"/> Shoreland Impact
<input type="checkbox"/> Subdivision
<input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> UGB Amendment
<input type="checkbox"/> Vacation
<input type="checkbox"/> Variance/Adjustment
<div style="margin-left: 20px;"> <input type="checkbox"/> PC
 <input type="checkbox"/> Staff </div> <input type="checkbox"/> Zone Ord/Map
<input type="checkbox"/> Amendment
<input type="checkbox"/> Other |
|---|---|--|

FOR OFFICE USE ONLY

File No. Assigned:		
Date Received:	Fee Amount:	Date Accepted as Complete:
Received By:	Receipt No.	Accepted By:
City Hall 169, SW Coast Hwy Newport, OR 97365 541.574.0629		



City of Newport Land Use Application

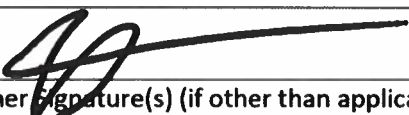
I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development and Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.


Applicant Signature(s)

9 February 2023

Date


Property Owner Signature(s) (if other than applicant)

9 February 2023

Date

Authorized representative Signature(s) (if other than applicant)

Date

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

LINCOLNPROD PROPERTY RECORD CARD

Attachment "B"

2-CUP-23

1/5/2023 8:13:59 AM

roperty ID: R389494

Map and Taxlot: 11-11-17-DD-01201-00

Tax Year: 2023

PROPERTY SITUS ADDRESS

Maintenance Area: F-12

OWNER NAME AND MAILING ADDRESS

OUTH BEACH CHURCH
O BOX 950
EWPORT, OR 97365

LEGAL DESCRIPTION

WNSHP 11, RNG 11, ACRES 2.98, POTENTIAL
DDITIONAL TAX LIABILITY, DOC202210255 &
OC202210386 & DOC202210388

res: 2.98 Sqft:

ffective Acres: 2.98

GENERAL PROPERTY INFORMATION

Prop Class: 640
NBH Code: SBNB
Prop Type Code: RES
Prop Code: Z6: SPECIAL ASSESSMENT PROGR/
Next Appr Date:
Next Appr Reason:
Last Appr Date: 02/20/2013
Appraiser: JM
Zoning: R-1,UGB
Code Area: 153
Related Accts:

VALUE HISTORY

Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
2022	54,290		54,290	2,350	2,35
2021	46,670	0	46,670	2,280	2,28
2020	37,660	0	37,660	2,210	2,21
2019	39,200	0	39,200	2,150	2,15
2018	37,660	0	37,660	2,080	2,08
2017	37,660	0	37,660	2,020	2,02

ASSESSMENT INFORMATION

Land Non-LSU:	Prior MAV:	Except RMV:
Improvement:	Prior MAV Adj:	CPR:
Non-LSU RMV Total:	Prior AV:	EX. MAV:
Land LSU:	Prior AV Adj:	LSU:
RMV Total:	AV +3%:	New M50 AV:

SALES INFORMATION

Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type	Sale Ref
10/31/2022	27			SALE	WD WARRANTY DEE	202210388
	37			NON SALE	BSD BARGAIN AND	202210255
				NON SALE	MISC MISCELLANE	M-9472

BUILDING PERMITS AND INSPECTIONS

ype	Appraiser	Issue Date	Date Checked	% Comp	Comment
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PARCEL COMMENTS

enFlag- M_12C,M_13C,PATL
enCom- JV#104 FROM CODE 192 INPUT 11-10-09.
and- PTO W/1400; RAN AS 1 SITE FOR SIZE ADJ ;EFF SIZE 11.98 ACRES.

EXEMPTIONS

Code	Exempt RMV
------	------------

Exceptions

Code	Year	Amount	Metho
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MARKET LAND INFORMATION

ype	Table	Method	Acres	Base Value	Adjustment Code - %
DESIGNATED FOREST	SBT	A	2.980	56,220	T-90,S-48
Total Acres:			2.980		

NBHD %	Total Adj %	Final Value
	0.432	72,380
Total Market Land Value:		72,380

LAND SPECIAL USE

Code	SAV Unt Pr	MSAV Unt Pr	LSU
F	1,262	789	2,35
Total LSU:			2,35

LINCOLNPROD PROPERTY RECORD CARD

Property ID: R391861

Map and Taxlot: 11-11-17-DD-01400-00

Tax Year: 2023

Run Date: 4/5/2023 8:12:14 AM

PROPERTY SITUS ADDRESS
 Maintenance Area: F-12

OWNER NAME AND MAILING ADDRESS
 SOUTH BEACH CHURCH
 PO BOX 950
 SEWPORT, OR 97365

LEGAL DESCRIPTION
 WNSHP 11, RNG 11, ACRES 9.00, POTENTIAL
 ADDITIONAL TAX LIABILITY, DV187-0090,
 OC202210255 & DOC202210386 &
 OC202210388

Acres: 9 Sqft:
 Effective Acres: 9

GENERAL PROPERTY INFORMATION
 Prop Class: 640
 NBH Code: SBNB
 Prop Type Code: RES
 Prop Code: Z6: SPECIAL ASSESSMENT PROGRAM
 Next Appr Date:
 Next Appr Reason:
 Last Appr Date: 04/01/2020
 Appraiser: WGS
 Zoning: R-1,UGB
 Code Area: 153
 Related Accts:

VALUE HISTORY					
Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
2022	153,310		153,310	7,090	7,090
2021	131,770	0	131,770	6,880	6,880
2020	106,320	0	106,320	6,680	6,680
2019	110,690	0	110,690	6,490	6,490
2018	111,660	0	111,660	6,300	6,300
2017	111,660	0	111,660	6,120	6,120

ASSESSMENT INFORMATION		
Land Non-LSU:	Prior MAV:	Except RMV:
Improvement:	Prior MAV Adj:	CPR:
Non-LSU RMV Total:	Prior AV:	EX. MAV:
Land LSU:	Prior AV Adj:	LSU:
RMV Total:	AV +3%:	New M50 AV:

SALES INFORMATION					
Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type
10/31/2022	27			SALE	WD WARRANTY DEE
	37			NON SALE	BSD BARGAIN AND
				NON SALE	MISC MISCELLANE

BUILDING PERMITS AND INSPECTIONS					
Type	Appraiser	Issue Date	Date Checked	% Comp	Comment

PARCEL COMMENTS
 enFlag- M_12C,M_13C,PATL
 enCom- JV#154 FROM CODE 192 INPUT 04-18-12. JV#420 +/- REMAP INPUT 3-18-04. JV#519 REMAP/NC INPUT 11-16-04.
 and- PTO W/TL 1201; RAN AS 1 SITE FOR SIZE ADJ. EFF SIZE 11.98 AC

EXEMPTIONS		Exceptions		
Code	Exempt RMV	Code	Year	Amount
		DSA	2001	18,370

MARKET LAND INFORMATION									LAND SPECIAL USE							
ype	Table	Method	Acres	Base Value	Adjustment Code - %	NBHD %	Total Adj %	Final Value	Code	SAV	Unt	Pr	MSAV	Unt	Pr	LSU
: DESIGNATED FOREST	SBT	A	1.000	56,220	T-90,D-85,S-48,V-110		0.404	22,710	F			1,262			789	78
: DESIGNATED FOREST	SBT	A	8.000	56,220	T-90,S-48,D-85,V-110		0.404	181,660	F			1,262			789	6.31
Total Acres:			9.000			Total Market Land Value:		204,370					Total LSU:		7.09	

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 50 100 150 200 Feet

S.E.1/4 S.E.1/4 SEC.17 T.11S. R.11W. W.M.
LINCOLN COUNTY
1" = 100'

Attachment "C"

2-CUP-23

11 11 17 DD
NEWPORT

Cancelled
100
1000
1499



Revised: SEB
11/03/2004

NEWPORT
11 11 17 DD



PO Box 950, Newport, OR 97365

541-272-3377 souchbeachchurch@gmail.com southbeachchurch.org

South Beach Church (SBC) is a vibrant non-denominational community of believers located in South Beach, Oregon, with a history dating back to 2008. Our main worship center can currently be found at 3335 S. Coast Hwy, while our administrative offices are located at 1164 S Coast Hwy in Newport. In 2022, we established South Beach Christian School (SBCS) at 809 SE 2nd St, providing a comprehensive educational experience for students. With a commitment to fostering spiritual growth and community, SBC and SBCS are dedicated to serving the South Beach area and beyond.

The mission of SBC is quite simple. "For the glory of God and the Good of Others." This refers to the idea that our actions and decisions should be motivated by a desire to bring honor to God while promoting the well-being of others. By serving others, we are fulfilling Jesus' commandment to love our neighbor as ourselves and bring glory to God. In serving others, we are not only meeting the needs of those around us, but we are also growing in our own faith and relationship with God. Through serving others, we can reflect God's love and grace to the world and bring joy and hope to those who are in need.

South Beach Church (SBC) plans to use the new building for worship services on Sunday mornings, with the potential to add Sunday evening service in the future. The space will also host various small group studies, including Men's and Women's Bible Studies and Youth Groups, typically held in the evenings. During the weekdays, the majority of the space will be occupied by the upper grades at South Beach Christian School. South Beach Christian School operates Monday through Thursday, with classes taking place from 8:30am to 3:15pm.

Our Church has a long history of serving the people of Lincoln County and we are committed to continuing that tradition by providing a safe and welcoming place for people of all ages to come together to worship and serve God. This new property would allow us to expand our programs and services, offering even more opportunities for people to connect with God and with each other.

We understand the importance of community and are committed to being good neighbors. Our new Church is designed to blend seamlessly into the surrounding neighborhood, and we would work closely with city officials to ensure that all building and safety codes are followed. Additionally, we would be happy to work with local businesses and organizations to create partnerships that would benefit the entire community.



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southbeachchurch.org

7. Written findings of fact addressing the following criteria:

(a) That the public facilities can adequately accommodate the proposed use.

(i) Meetings occurred with City of Newport Assistant City Engineer, Clare Paul, and City of Newport Community Development Director, Derrick Tokos, and Building Official, Joseph Lease, to review the site conditions and ensure the public infrastructure and facilities were adequate to accommodate the proposed development. It was determined that water and wastewater service can be extended into the property from SE 40th Street via an existing curb cut in the SE Chestnut Street right-of-way which is in the SW corner of the property. South Beach Church has engaged Civil West Engineering to develop a comprehensive stormwater management plan for the site. It has been determined that the impervious surfaces, building and parking lots, can be managed adequately. Lastly, South Beach Church has engaged with Central Lincoln PUD to confirm the electrical requirements for the new facility will have adequate power access on site. The criteria of confirming the public facilities can adequately accommodate the new building has been confirmed.

(b) That the request complies with the requirements of the underlying zone or overlay zone.

(i) The R-3 zoning aligns with the designation applied to the property within the City. It is the intent of South Beach Church to construct a new church facility that will also serve as a private school on the subject property. Per the Newport Municipal Code 14.03.050, Religious Institutions / Places of Worship are allowed conditionally in the City of Newport's four residential zones, including the R-3 zoning of the recently annexed South Beach Church property. Additionally, a Public or Private School is also allowed conditionally in the City of Newport's R-3 zone. The subject property is 11.98 acres or 521,849sf. The proposed building footprint is 19,895sf which results in a lot coverage of approximately 3.8% which is well under the allowed R-3 lot coverage of 60%. The front, side and rear yard setbacks are all in considerable excess of the zoning standards. The building is 34'6" at the highest point of the structure, complying with the 35' maximum building height zoning requirement. The new building and site improvements comply with the parking requirements, building height, lot



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541-272-3377 southbeachchurch@gmail.com southbeachchurch.org

coverage, building setbacks, bicycle storage, and landscaping standards of the Newport Municipal Code.

- (c) That the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. (For purpose of this criterion, “adverse impact” is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.)
- (i) The proposed new construction will have no adverse impacts on the nearby properties. The site is a relatively flat site with steep slopes forming the west, north and east side. The property is heavily forested. A northern wetland separates the subject property from mixed residential uses to the north. To the west there is light industrial uses. To the south there is undeveloped residential property. Lastly, the land to the east is heavily forested and outside of the city limits. The proposal addresses all parking requirements per the Newport Municipal Code, including the new landscaped parking requirement which will provide an aesthetic buffer from the public street. All parking will be managed on site. It has been determined that the street infrastructure can accommodate the building loading through the trip budget program (see attached trip assessment letter per the Newport Municipal Code 14.43). The use of the building will be consistent with many residential neighborhoods throughout Newport that have religious facilities and schools within close proximity. It is the intent of the Church to be a positive contributor to the dynamic residential and commercial development of the neighboring Wilder property. The structure will comply with all requirements of the Oregon Structural Specialty Code which protect air quality and noise. The noise and acoustics have been a challenge in the South Beach Church’s current location located at 3335 South Coast Highway. It is noted that considerable care has gone into ensuring that there will be no noise concerns in the new proposed building. South Beach Church has engaged the acoustic specialist, Team Wilson Media, which has provided a detailed mitigation strategy memo which is attached in this document. There are layout considerations, treatment considerations, and system design considerations that are outlined in considerable detail in the memo. With the expertise of Wilson Media and the planned building design, South Beach Church is confident that the new facility will not have negative acoustic concerns for the neighboring properties. The new



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541-272-3377 souchbeachchurch@gmail.com southbeachchurch.org

modernized facility will benefit the surrounding residential, commercial, and industrial uses and will not have any adverse impacts. Overall, the project will contribute to the thriving neighborhood in South Beach.

- (d) If the application is for a proposed building or building modification, that it is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.
 - (i) As outlined previously, the existing building complies with all height requirements, setbacks and zoning standards of the Newport Municipal Code for the R-3 zone. The City of Newport and South Beach in specific have an eclectic design style with various building types that contribute to the overall experience of the community. The new building will utilize similar materials as many of the buildings in the neighborhood with a dark metal siding that allows the structure to blend in with the dense surrounding trees. A large timber entry has been incorporated into the design with the intent of simulating the large surrounding trees and providing warmth to an inviting entry for the new facility. South Beach Church has proven their commitment to serving the community of Lincoln County and welcoming all people for worship and education.

8. A written statement describing the nature of the request.

South Beach Church plans to construct a new building of approximately 19,895sf in South Beach. The new facility will be utilized for worship on Sunday mornings and Sunday evenings, for various small group meetings during the week, and to house the upper grades of South Beach Christian School, which operates Monday through Thursday. The facility is planned to be constructed in the City of Newport in an R3 Zone.

SOUTH BEACH CHURCH

3335 S Coast Hwy • South Beach, OR 97366

541.272.3377 • lukefrechette@gmail.com



February 2, 2023

RE: Acoustic Recommendations for Ambient Sound Mitigation

Dear City of Newport City Council and City of Newport Planning Commission,

We're excited for the opportunity South Beach Church is taking in commissioning a new sanctuary to be built! We recognize that with any large event space there is a concern about the possibility of acoustic and sound-related issues, and are honored to be able to support South Beach Church in their vision to be good, considerate neighbors and a welcome addition to the community by reducing sound bleed from the sanctuary into surrounding properties.

There are a number of practical considerations and techniques that we have outlined and will be incorporating into the design of the new South Beach Church building to ensure the acoustics provide a wonderful experience for the church without negatively impacting the neighboring properties. Between the layout of your facility, the treatment of the space, and the configuration of the sound system, here are some of the steps that are to be utilized throughout this process.

LAYOUT CONSIDERATIONS

The first line of defense on sound reduction is, generally, to add barriers to break up sound bleed. By placing the sanctuary roughly in the middle of the building with offices and meeting spaces around it, South Beach Church and the design team are taking a huge step towards mitigating sound bleed. The layout of the room as shown in the plans places additional interior walls around the sanctuary on three sides, and the roof design further helps by ensuring that none of the sanctuary walls are

exterior facing above any of the spaces. Further, the orientation of the room places the sound system away from the exterior walls which will help tremendously.

To assist with the reduction of sound from the wall adjacent to the sanctuary, we have recommended the use of solid-core doors on any outer doors, as well as insulated roll-up doors, which will be implemented in order to supplement the work that has already been done through layout.

TREATMENT CONSIDERATIONS

Acoustic treatment is an important part of the sound mitigation plan, and we will be incorporating the following construction/treatment techniques to assist with sound bleed, particularly from the south-facing wall.

- We will use either double-thick drywall or acoustic-rated drywall products (such as QuietRock 530) on the interior side of sanctuary and meeting-space walls.
- Sound transmission through and resonance of the roof of the building will be significantly reduced through the application of a lightweight acoustic FR spray product such as ICC K-13 or SonaSpray.
- All walls in meeting spaces, and especially the south wall, will be insulated with an acoustic-rated product such as rock wool. This will reduce vibration of the exterior steel wall and considerably impact low-frequency transmission.
- Use of acoustic paneling and hardboard siding/diffusion materials on the interior sanctuary walls will reduce the transfer of low-end from the building by adding weight and breaking up resonant frequencies.

SYSTEM DESIGN CONSIDERATIONS

The design and implementation of the Front-of-House system can have a large impact on the amount of bleed from a system. Based on the size and layout of the main sanctuary space, we will utilize an approach that leverages multiple, smaller sound sources at a lower overall level to distribute sound across the space, rather than a few larger boxes that overall must generate higher levels to distribute sound. The following will help reduce the overall bleed from the system, especially when it comes to low-frequency content.

- An LCRS system design utilizing narrow-spread line-array boxes to distribute sound across such a wide space will reduce overall point-source sound levels while helping with clarity by limiting reflections from indirect surfaces.

- Stage-Fill boxes will help with intelligibility at low output to cover the front rows and further reduce overall output levels.
- Using multiple smaller flown subwoofers (vs. few large units under the stage) will reduce ground-effect and allow sound to distribute more evenly across the seating space. Depending on the needs of the space, these can be supplemented with one or two “steerable” conventional subs on the ground at lower levels to add punch without adding significant SPL to the room.

ADDITIONAL THOUGHTS

We are confident that, given the orientation of the room, the materials and technology available, and through intentional training and support of the South Beach Church technical team, issues of sound transfer from this new building will be controlled to a level that complies with the City of Newport's limits and guidance on noise pollution, allowing the church to be both good stewards of the resources and space available, and also good neighbors and a welcome addition to your local community.

WITH QUESTIONS, CONTACT:

Nick Campfield

General Manager

nick@teamwilsonmedia.com

509.424.8937

Brian Engle

Design Lead

brian@teamwilsonmedia.com

541.441.3348



Rogue Valley Office
830 O'Hare Parkway, Ste. 102
Medford, OR 97504
541-326-4828

Willamette Valley Office
200 Ferry Street SW
Albany, OR 97321
541-223-5130

South Coast Office
486 'E' Street
Coos Bay, OR 97420
541-266-8601

North Coast Office
609 SW Hubert Street
Newport, OR 97365
541-264-7040

March 8, 2023

Derrick Tokos
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365

RE: Trip Assessment Letter
Conditional Use Application for Tax Lots 01201 and 01400 of Assessor's Tax Map 11-1 1-17-DD
South Beach Church – SE 40th Street, Newport, OR

Mr. Tokos,

The following Trip Assessment Letter is to satisfy the requirements of NMC 14.43.080(A) resulting from the proposed South Beach Church (SBC) development located on SE 40th Street in Newport, Oregon. South Beach Church is proposing to develop a church and private school on the properties described above.

The trip assessment letter is intended to demonstrate that the proposed development or use will not generate more PM peak hour trips than what is available in the trip budget for the TAZ in which it is located. The SBC property is located within TAZ H, which has 194 PM peak hour trips available as of March 8, 2023.

According to the Common Trip Generation Rates (PM Peak Hour) table from the ITE Trip Generation Manual, 10th Edition, projected PM peak trips are calculated as follows:

Code	Description	Unit of Measure	Trips Per Unit	Units of proposed use	Projected PM peak hour trips	
560	church	1,000 SF GFA	0.49	19,895 SF	10	(GFA = gross floor area)
536	Private School (K-12)	students	0.17	50	9	
Total:					18	

Based upon the proposed use, the total projected PM peak hour trips are 18, which is within the available PM peak hour trips of 194.

Sincerely,
Civil West Engineering Services, Inc.

Timothy Gross, PE
Senior Project Manager
North Coast Region - Newport





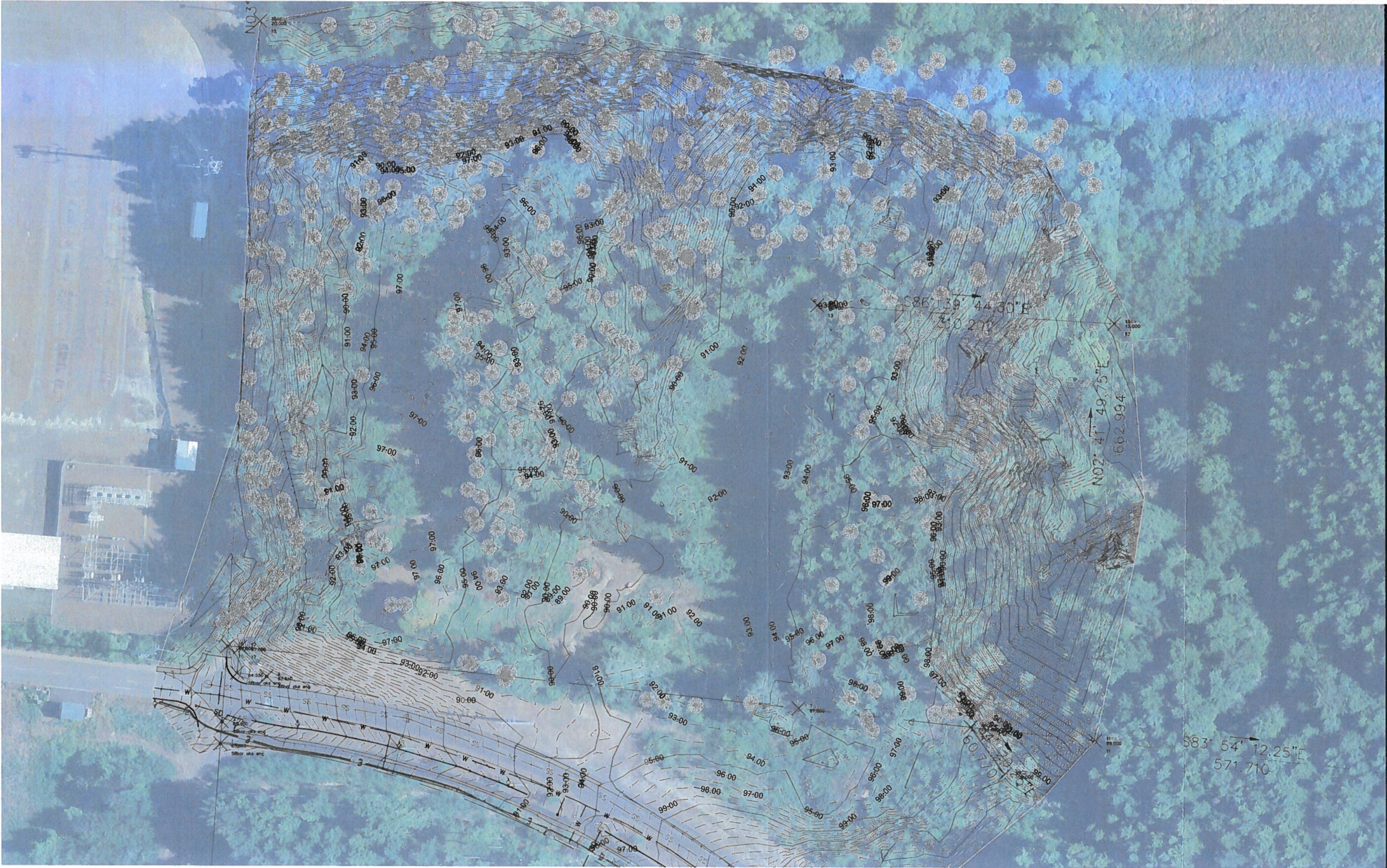
PO Box 950, Newport, OR 97365
541-272-3377 southbeachchurch@gmail.com southbeachchurch.org

Civil West

Attachment "H"
2-CUP-23

Engineering Services, Inc.





PRELIMINARY



Civil West
Engineering Services, Inc.

SOUTH BEACH CHURCH
NEWPORT, OR

THBEACH CHURCH DEVELOPMENT

REV.	DATE	DESCRIPTION	BY

DESIGNED BY:	DRAWN BY:	CHECKED BY:
CJ	CJ	TEG

PROJECT NO: 2204-194

609 SW HURBERT ST.
NEWPORT OR 97365

541-264-7040
www.civilwest.com



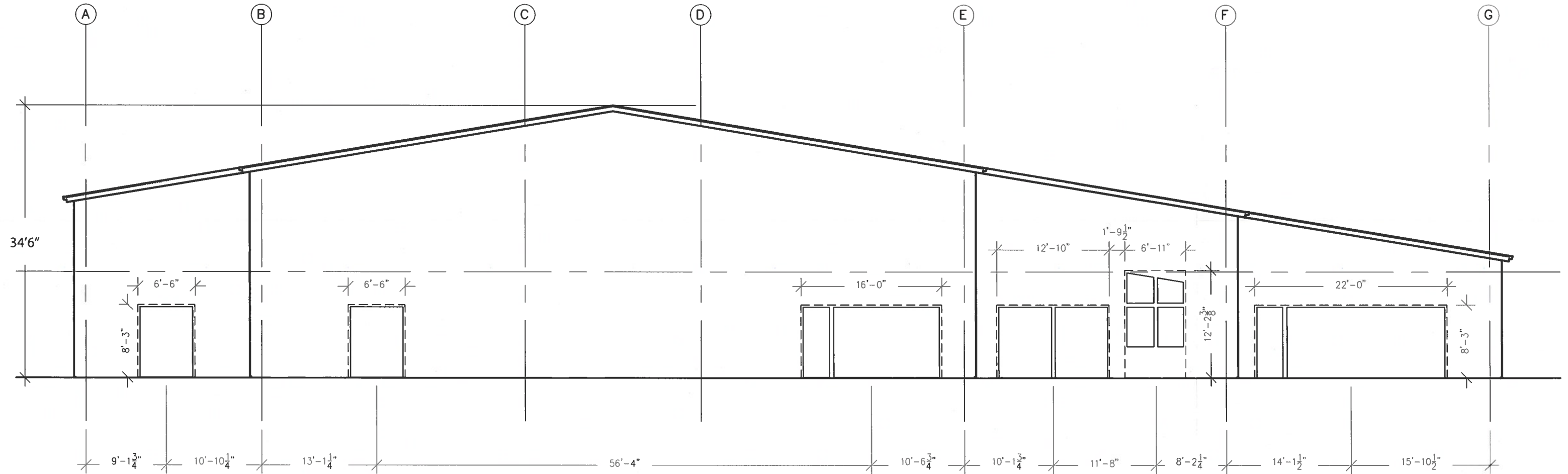


PO Box 950, Newport, OR 97365
541-272-3377 soughbeachchurch@gmail.com southbeachchurch.org

Attachment "J"
2-CUP-23

capriarchitecture
541.961.0503 info@capriarchitecture.com

91

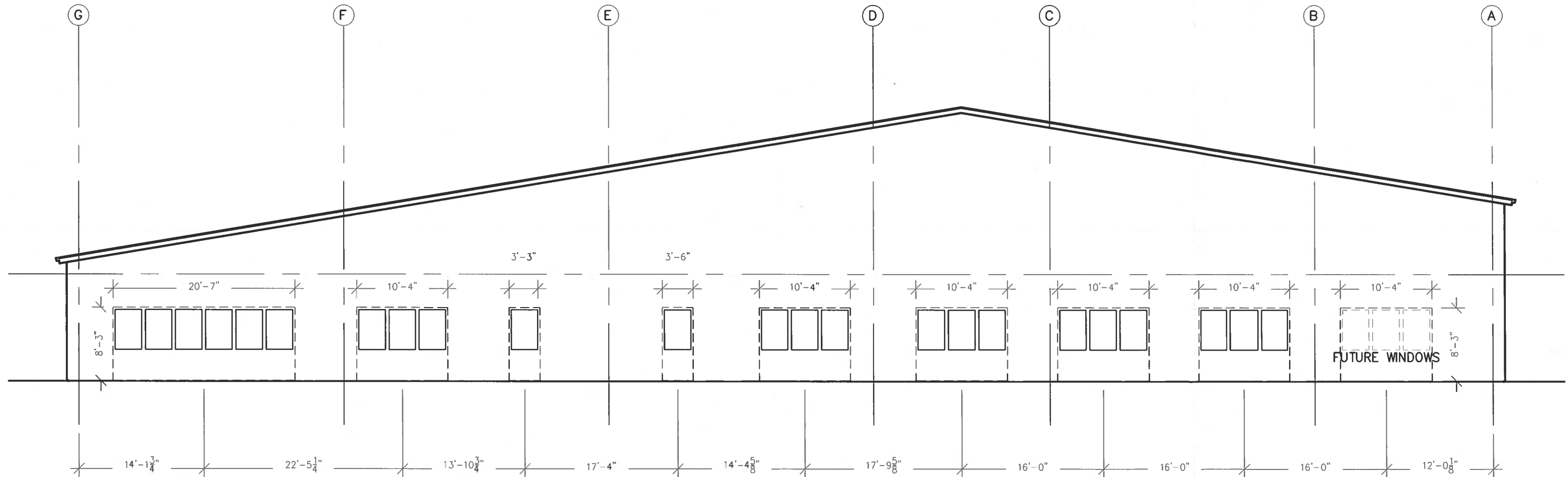


SOUTH ELEVATION - 3/32"=1'0"



PO Box 950, Newport, OR 97365
541-272-3377 southbeachchurch@gmail.com southbeachchurch.org

capriarchitecture
541.961.0503 info@capriarchitecture.com

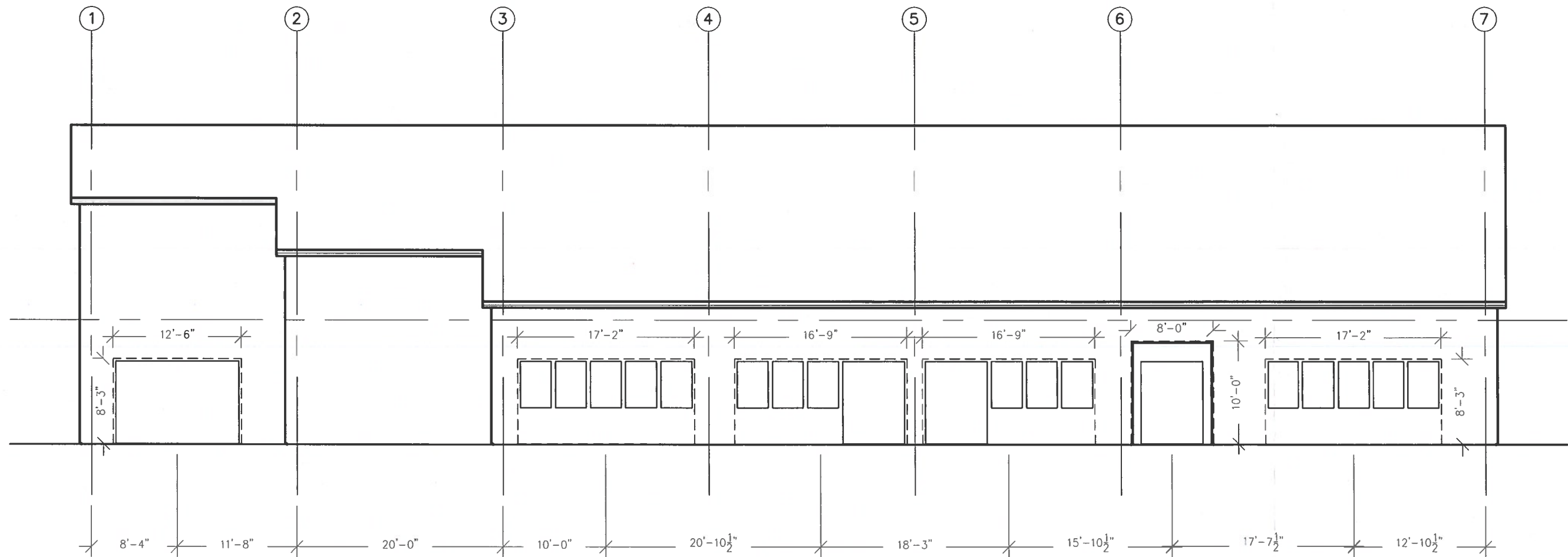


NORTH ELEVATION - 3/32"=1'0"



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541-272-3377 souchbeachchurch@gmail.com southbeachchurch.org

capriarchitecture
541.961.0503 info@capriarchitecture.com

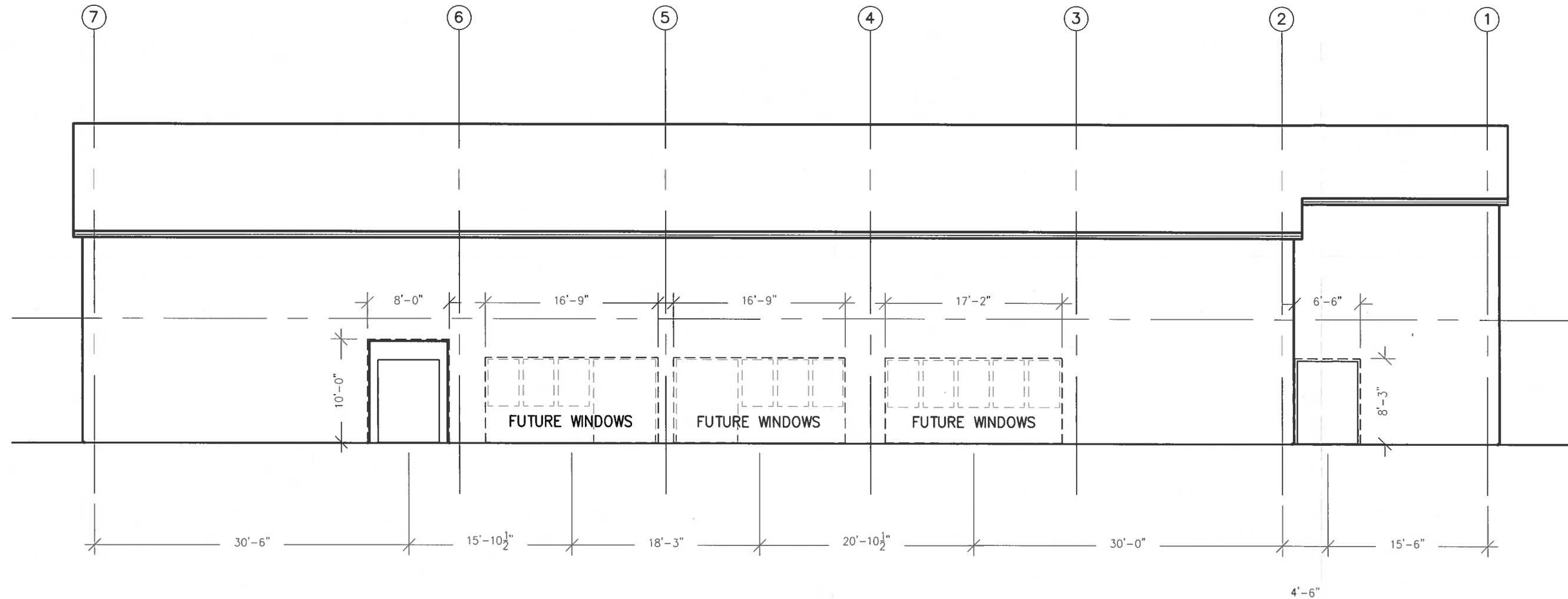


EAST ELEVATION - 3/32"=1'0"



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capriarchitecture
541.961.0503 info@capriarchitecture.com



WEST ELEVATION - 3/32"=1'0"



PO Box 950, Newport, OR 97365
541-272-3377 southbeachchurch@gmail.com southbeachchurch.org

Attachment "K"
2-CUP-23

capriarchitecture
541.961.0503 info@capriarchitecture.com



ENTRY RENDERING

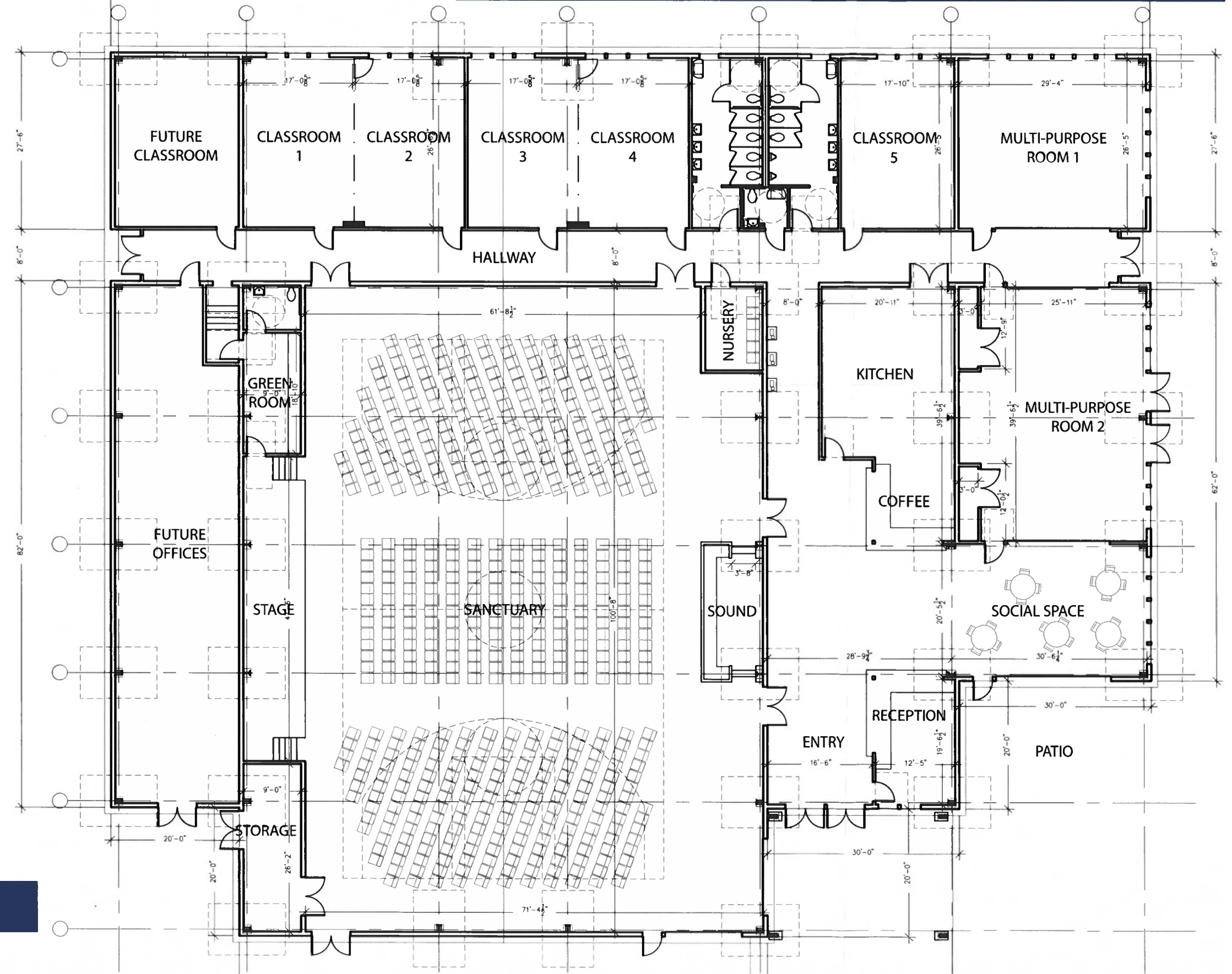


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541-272-3377 southbeachchurch@gmail.com southbeachchurch.org

Attachment "L"
2-CUP-23

capriarchitecture
541.961.0503 info@capriarchitecture.com

96



FLOOR PLAN - 1/16"=1'0"



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541-272-3377 souchbeachchurch@gmail.com southbeachchurch.org



BUILDING SIGN 1 - NO SCALE



STREET SIGN - NO SCALE



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541-272-3377 souchbeachchurch@gmail.com southbeachchurch.org

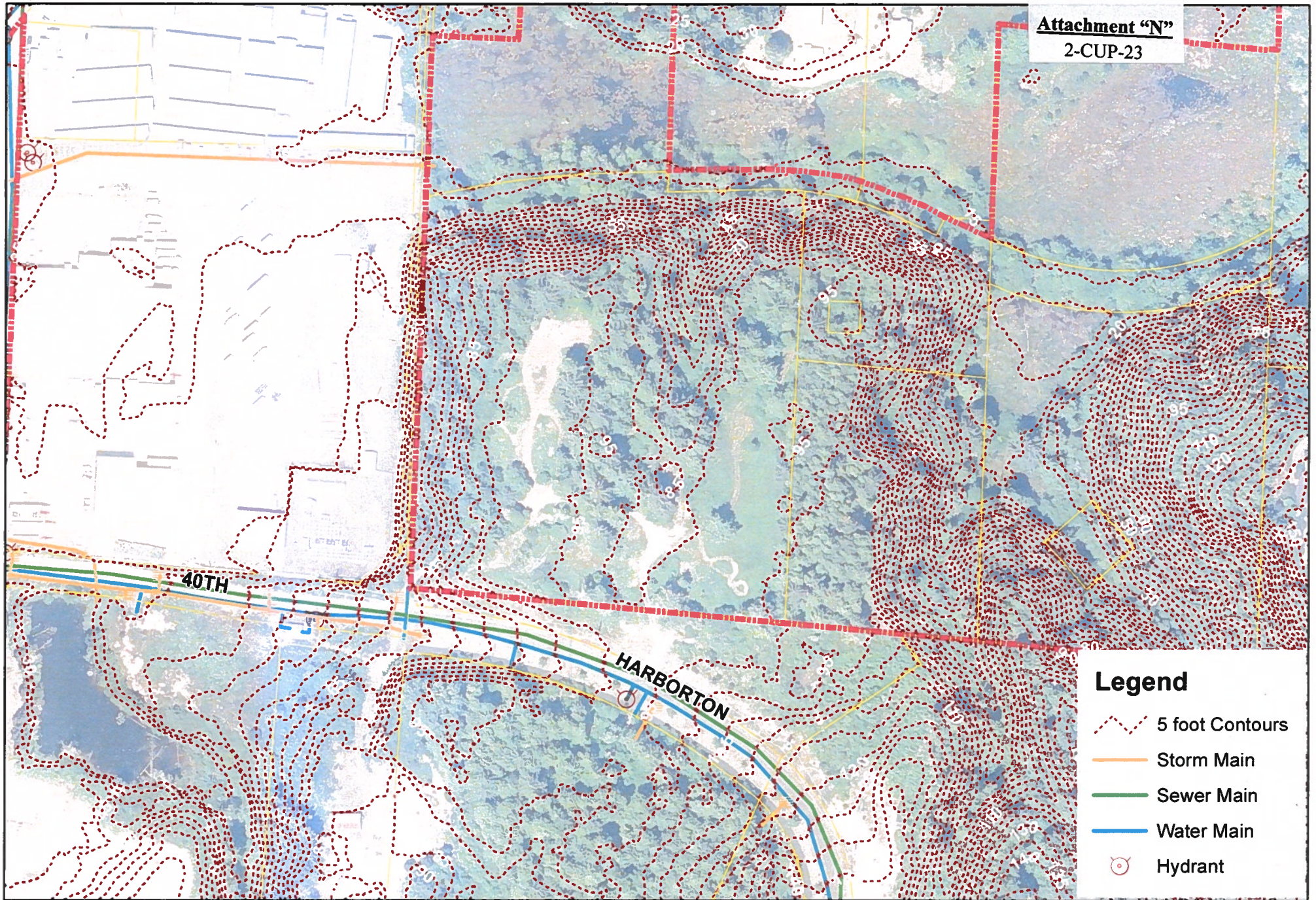
capriarchitecture
541.961.0503 info@capriarchitecture.com

36'3" WIDE

12'3" TALL

**FOR THE
GLORY OF GOD
AND THE GOOD
OF OTHERS**

BUILDING SIGN 2 - NO SCALE



- Legend**
- 5 foot Contours
 - Storm Main
 - Sewer Main
 - Water Main
 - Hydrant

Sherri Marineau

From: Lyle G Chamberlain
Sent: Sunday, March 26, 2023 5:17 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hello Lincoln County Planning Commission. My name is Lyle Chamberlain. I have been attending South Beach Church for ten years

As you know we have been holding our church services in a building the City of Newport has so gracefully let us occupy. Now it's time for us to build on our own land we recently purchased. South Beach Church has always supported and participated in the City of Newports community programs and will continue. Having our own building will provide programs that will benefit all of our community We have always cooperated with our neighbors and will continue in our new building Please approve the Conditional Use Permit

Thank you
Lyle G Chamberlain

Sent from my iPhone

Sherri Marineau

From: Jana Rea
Sent: Sunday, March 26, 2023 6:34 PM
To: Public comment
Subject: South Beach Church Conditional Use Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

Dear Planning Commission,

I would like to go on record as being in favor of South Beach Church being issued a Conditional Use Permit for the construction of their new church on their property in South Beach.

To have a church in a neighborhood is a plus for the neighborhood. I grew up with a church in my neighborhood and it was always a place where people gathered to help others that were in need. It was a safe place to go and had many activities for us kids. Activities that helped us to grow up to be caring, helpful, thoughtful, and successful adults. Activities that gave us a hope and a purpose.

South Beach Church is a church just like that. There are so many activities for children, teens, and adults. These gatherings are open to anyone that wants to come. Some of these gatherings are for fun growing families closer together and closer to God. The youth gather to build friendships as they learn about making good Godly choices and to support each other with good decisions. Some gatherings are to help people in the community. The list is long but a few of these things are:

- creating baskets of items for newborn babies that have been given out at the hospital
- going to laundry mats with quarters and laundry soap to help out those who are having troubles making ends meet
- cleaning up the trash on Hwy 101 in South Beach
- feeding the homeless and people in the community at "Hope in the Park"
- a community Thanksgiving dinner

South Beach Church is also active with other groups in the community such as Newport Fisherman's Wives, Safe Families, Grace Wins Haven, Newport Food Share, and many more. We all work together to make our community a better place.

There are so many things our church can do in our community and are looking forward to doing. We look forward to having the space to do these things in a new building on our property that we purchased.

This summer my husband and I will have attended South Beach Church for 10 years. We have watched this church grow and blossom, it has changed my life for the better. We ask you to say "yes" to the Conditional Use Permit so that more lives and our community can be impacted in a positive way.

Thank you,
 Jana Rea
 Newport Resident

Sherri Marineau

From: Sarah Yardley
Sent: Sunday, March 26, 2023 6:57 PM
To: Public comment
Subject: South Beach Church Conditional Use Permit, April 10th.

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hello! My name is Sarah Yardley. I have been going to South Beach Church for almost 9 years. Before that though, I was addicted to heroin and meth. Caught up in the life style and losing everything important to me because of my addition. Until I was saved by the Lord in a jail cell in 2014. I was told by one of the girls in jail to attend SBC when I get out. So I did. From the moment I walked in I was welcomed and felt love that I so desperately needed. God began to restore my life at this church. I was able to do my community service here where I made healthy friends, gain clean time and get my daughter back, rebuild trust with family because of the person I was learning to be surrounded by many people that taught me a new way to live. South Beach Church isn't just a building, it's family, it's where lives are restored and people are set free. My life is proof. I want to continue seeing peoples lives transformed. I currently go back into the jail with Prison Fellowship and encourage the inmates to come to SBC with the same hope for them. I am in full favor of the conditional use permit for South Beach Church. God bless you all.

Sherri Marineau

From: Crystal Joele Tillman
Sent: Sunday, March 26, 2023 9:54 PM
To: Public comment
Subject: SBC Conditional Use Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

Newport Planning Commission,

Thank you for your time to consider the Conditional Use Permit for South Beach Church.

The hope is always that every church will have a deep impact on the neighborhood in which they meet. Some do, and some do not. I cannot emphasize enough that SBC is a church that has deep involvement in this community. South Beach Church has gone above and beyond time and time again to care for not only the individuals who reside in Newport, but the community as a whole. From coming alongside neighbors struggling with addiction to providing aid to those in need and cleaning up trash along our roads, this church is an action based congregation that practices what it preaches. SBC also provides a healthy, encouraging place for our youth to gather. Their investment in the children in this community is unmatched. If they were not here, the community would absolutely feel it's absence.

SBC brings people from all over the surrounding areas to Newport at least once a week. The congregation is made up of people that drive in from Corvallis, Yachats, and Waldport. These people who attend SBC are shopping in our stores and frequenting our restaurants and coffee shops. They are brining life to our town and supporting our businesses who desperately need them.

SBC has outgrown it's current facility. We are requesting a Conditional Use Permit to allow us to build a facility that not only meets the needs of our congregation, but allows us space to expand our outreach within the community. I believe that the value of SBC in Newport is immeasurable, and with the opportunity to move to a permanent building this will only increase. Conversely, the cost to the city of Newport should this congregation be forced to move would be of higher impact than anyone could anticipate.

Thank you for your consideration.

--

Crystal Tillman

Sherri Marineau

From: tuffguy@charter.net
Sent: Tuesday, March 21, 2023 2:07 PM
To: Public comment
Subject: Conditional Use Permit for South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

This email is being sent to ask for approval of the conditional use permit submitted by South Beach Church (SBC) to build a new church on land the church recently acquired near the Oregon Coast Community College campus. As a current member of the SBC congregation, I support this move as being positive in a variety of ways. Churches are vital components of any community, bringing people together not only to worship but also to contribute cultural advancement to the cities, counties and regions where they are located. I believe that granting the conditional use permit is the right thing to do and that having a church near the OCCC campus will add value to the quality of life experience for churchgoers and our new neighbors.

Sherri Marineau

From: Bill Van Wyk
Sent: Tuesday, March 21, 2023 10:49 AM
To: Public comment
Subject: Church land

[WARNING] This message comes from an external organization. Be careful of embedded links.

I'm all in favor of South Beach church building on their land up on the hill....this church is helping so many people and is a tremendous blessing to the city of Newport...they have been such a positive influence on so many in this city...you have my vote to allow them to build their get together building up there...Bill Van Wyk

[Sent from Yahoo Mail on Android](#)

Sherri Marineau

From: D Withrow
Sent: Tuesday, March 21, 2023 6:36 AM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

Good morning,

We are pleased to be writing to you in favor of South Beach Church.
We are many and love this church, we will be good neighbors.
Thank you for your consideration.

Sincerely,
Don & Debbie Withrow

Sherri Marineau

From: Christine Hutchins
Sent: Monday, March 20, 2023 8:17 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hello

As a resident of Otter Rock and I attend South Beach Church I believe they will make great neighbors on their new property in Newport.

South Beach church makes many efforts to improve the conditions in our area helping to arrange housing when needed and has events where they feed the community including the homeless.

Funds are collected to support mothers with small children and member of our church do outreach to the prisons and parents struggling with their children with special needs.

The new church will allow South Beach Church to have a large reach and they will be a great benefit to the Newport Community with their church and school.

Thank you for your time.

Kind Regards

Chris

Christine Hutchins

Otter Rock

Oregon 97369

Sherri Marineau

From: Derrick Tokos
Sent: Monday, March 20, 2023 2:41 PM
To: Sherri Marineau
Subject: FW: FW: SB Church

From: Erik Glover
Sent: Monday, March 20, 2023 2:18 PM
To: Derrick Tokos
Subject: FW: SB Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

Aye all I am sharing with you how very important SBC is to me and my family. I've been attending 5 yrs and have seen my granddaughter come to the Lord as well as my oldest child come back to church. The people and pastor have a very close loving and caring for all who come through the doors as well as many in the community. The church supports many missions and the families near and far. Please consider allowing for our new church home to be built.

Sincerely
 Arrow Ramsey

[Sent from Yahoo Mail on Android](#)

Erik Glover

Assistant City Manager/City Recorder
 City of Newport, Oregon 97365
 541-574-0613
e.glover@newportoregon.gov

Sherri Marineau

From: Derrick Tokos
Sent: Monday, March 20, 2023 1:10 PM
To: Sherri Marineau
Subject: FW: FW: South Beach Church

From: Erik Glover
Sent: Monday, March 20, 2023 9:01 AM
To: Derrick Tokos
Subject: FW: South Beach Church

From: ER Sager
Sent: Sunday, March 19, 2023 7:10 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

I am writing in support of South Beach Church's permit to be approved on the land that has been purchased which is considered a residential zone. As most churches in Lincoln County are in residential areas, this would continue that trend. South Beach Church is a vital part of Lincoln County and serves and supports the community in many ways. This is why I believe the church has continued to grow and evolve. I believe the church is blessed because the leadership and congregation focus on helping others. I hope that the city council will approve the building of South Beach Church in the residential area on which the property has been purchased.

Thank you!

--

—•••••—
 May the Lord bless you and keep you;
 May the Lord make His face shine
 upon you and be gracious to you;
 May the Lord lift up His favour upon
 you and give you His peace.
 —•••••—

Libba

Erik Glover

Assistant City Manager/City Recorder

City of Newport, Oregon 97365
 541-574-0613
e.glover@newportoregon.gov

Sherri Marineau

From: Jan Macdonald
Sent: Monday, March 27, 2023 3:25 PM
To: Public comment
Subject: South Beach Church Conditional Use Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hello, my name is Jan MacDonald and I am a resident of Newport.

Our church, South Beach Church, led by pastor Luke Frechette, is currently located in South Beach in an old warehouse that will be torn down at the end of this year. Our church is growing fast because of its popularity and Luke's motivating way of presenting his messages on Sundays. We have purchased land close to the Wilder community for a new church. Our congregation is very excited about this and there is so much support because the need is so great for this new church.

South Beach Church has served Newport and surrounding towns in Lincoln County in such a big way by being involved with the entire community, whether providing a venue for recovering addicts in our Celebrate Recovery program, or having BBQs in the Newport parks during the summer, providing meals during the holidays which sometimes reaches over 500 people at a time, or doing an uplifting Christmas sing-a-long in the middle of Fred Meyer in December! By having this new church, we will be able to grow our membership so that we can do more out-reaches throughout Lincoln County. Our church is built on love, reaching the hearts of others, helping with the needs of the community, whatever it may be. Our church is open to ANYONE AND EVERYONE with open arms and love.

NEWPORT NEEDS THIS CHURCH! Please allow this Conditional Use Permit! Thank you.

--

Jan MacDonald

Sherri Marineau

From: Lois Oestreich
Sent: Tuesday, March 28, 2023 9:47 AM
To: Public comment
Subject: South Beach Church Conditional Use Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

I would like to express my deep gratitude for the Planning Commission's decision to review South Beach Church's Conditional Use Permit. My husband and I have owned property on the Oregon Coast for over a decade and feel we know the area well. With the limited amount of services and facilities in the central coast area, we applaud and support any effort for South Beach Church to build a new, much larger facility. The church building will not only provide space for the church to gather, it will also provide much needed space for community and private events.

We do not live in Newport but do attend South Beach Church. As a result, when we travel to church functions, we shop at Newport stores, purchase gas, and often dine out. Multiply that by a factor of 1000, and you see a dramatic impact on the commerce of the greater Newport area.

In addition, people who attend SBC serve the community through food distribution, hosting Celebrate Recovery, various youth groups, homeless ministries, jail ministries, and a variety of unpublicised ways. Please vote to accept South Beach Church's Conditional Use Permit request.

Thank you for your time.

Lois Oestreich
Depoe Bay, Oregon

Sherri Marineau

From: Gordon Manning
Sent: Tuesday, March 28, 2023 10:01 AM
To: Public comment
Subject: South Beach Church - conditional permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

ALL,

I would like to express my appreciation for South Beach Church (SBC). Their involvement with the Commercial Fishing industry and the fishermen's wives association has been very positive. They have impacted the Homeless population with help, food, clothing and medication, also the impoverished with food and clothing. They are involved with the Food Bank, the tourism commerce center, the parade, Samaritan Hospital with new mothers, they offer support and recovery for the jail, they have a strong uplifting change with drug and alcohol addiction. In addition, their on-line website is visited by thousands that become interested in Newport Oregon.

Thank you,

Gordon Manning

I am a part of and living in the South Beach South Shore HOA.

Sherri Marineau

From: Michael Fielding
Sent: Tuesday, March 28, 2023 12:07 PM
To: Public comment
Subject: Planning Commision Public Hearing - Conditional Use Permit - SBC for April 10th Hearing

[WARNING] This message comes from an external organization. Be careful of embedded links.

Dear Planning Commission members,

I am writing this to express my support in favor of approval of South Beach Church's (SBC) Conditional Use Permit by the Commission. SBC is a much needed sanctuary open to all in our community. SBC serves in ways that directly benefit our residents, visitors and yes, even those who are recovering from addictions or homelessness. The church hosts a Celebrating Recovery group on Tuesday evening where up to 80 people gather together in support of each other. On Wednesdays, SBC also provides opportunity for Middle and High School students to come together to develop stronger relationships and friendships at this crucial time of their lives. The whole of the community is invited yearly to an open house Thanksgiving Dinner; last year's attendance number at this event was over 500. And, meals are also delivered to homes that express a desire to participate but do not necessarily have their own transportation. The above depicts only a partial list of SBC's involvement in community service.

Churches traditionally serve populated areas. The SBC parcel is within easy walking distance of the new homes at Wilder and the Community College and would provide year-round accessibility for nearby residents and students alike. Another plus: the geographic elevation of the parcel opens itself to the possibility of becoming an additional evacuation point for the many residents residing south of the Newport Bridge.

Bottom Line: The approval of a Conditional Use Permit for the new SBC property would have a positive outcome for the citizens of Newport and South Beach.

Sherri Marineau

From: Riley Richcreek
Sent: Wednesday, March 29, 2023 1:34 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

Hi City of Newport,

I would like to email you today and voice my support for the South Beach Church and its new building on the land they purchased a few months ago. The church does so much good for our community, it's a place of joy and welcomes over a thousand members weekly. That is roughly 10% + of the city's population! I hope this message finds you well and that you will continue to support the building project in South Beach.

Thank you,
Riley Richcreek

Sherri Marineau

From: Ulla Mundil
Sent: Wednesday, March 29, 2023 3:11 PM
To: Public comment
Subject: Planning Commission Hearing re SBC Conditional Use Permit (April 10th, 2023)

[WARNING] This message comes from an external organization. Be careful of embedded links.

Dear Planning Commission Members -

I would like to express my support in favor of approval of South Beach Church's Conditional Use Permit by the Commission. My husband and I have been attending SBC for more than 10 years and have enjoyed not only the consistent Biblical teaching, but also seen the expansion of an increasing number of activities and ministries for all age groups here in Newport as well as in various countries around the world. One of our most vibrant ministries is Celebrate Recovery, which serves around 80 people weekly, providing dinner, inspiring talks, much needed fellowship and the opportunity to build lasting friendships. Increasingly, we organize Outreach Programs such as the recent support of young mothers at the local hospital or simply meeting and helping people financially in one of the local laundrettes. Our annual Thanksgiving Dinner has become a Newport tradition and serves around 500+ people every year. We look forward to having a new church building that will be even better equipped to serve the community of South Beach as well as Newport. Its location would provide accessibility to all Wilder Community residents within walking distance. In addition, in times of natural disasters such as storms, flooding or a tsunami the planned location of the new building would be an ideal center of gathering, serving food and distributing medical aid - and perhaps, above all, the perfect place to find rest, comfort and fellowship.

Ulla Mundil

Sherri Marineau

From: tianne rios
Sent: Wednesday, March 29, 2023 8:28 PM
To: Public comment
Subject: In favor of the South Beach Church Project

[WARNING] This message comes from an external organization. Be careful of embedded links.

South Beach Church has a special place in my heart and in the hearts of our community. The building project has been a vision of the church for several years and I would like the city to know it is a very important part of our community. Please support this monumental project in anyway you can so that the church plans will be successful.

Sincerely,

TiAnne Rios
South Beach Church Member

Sherri Marineau

From: Larry Holt
Sent: Thursday, March 30, 2023 8:16 AM
To: Public comment
Subject: South Beach Church Bldg Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

I am requesting approval of the Building Permit SBC has submitted.

The church staff, congregation, and activities are a positive influence on my life.

As one example of the commitment to the community, ODOT approved SBC several years ago as the designated Adopt a Highway designee for South Beach. This includes 2 miles of the highway 101 mile markers 142 thru 144. Signs have been posted by ODOT to indicate their approval. This area roughly runs from south end of the yaquina bridge to SW 60th.

Respectfully submitted

Larry Holt

Sherri Marineau

From: Darrell
Sent: Thursday, March 30, 2023 9:01 AM
To: Public comment
Subject: South Beach Church building project

[WARNING] This message comes from an external organization. Be careful of embedded links.

Dear City of Newport,

we are in favor of the South Beach Church building project in South Beach.

kind regards,
Darrell McElmurry

Sherri Marineau

From: Tosh McIntosh
Sent: Saturday, April 01, 2023 10:50 AM
To: Public comment
Subject: South Beach Church April 10 2023 Conditional Use Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

Planning Commission Public Hearing April 10, 2023

RE: South Beach Church request for Conditional Use Permit

March 31, 2023

Dear Planning Commission members,

My wife and I strongly feel that South Beach Church's request for a Conditional Use Permit should be approved and granted.

We've lived in Waldport full time since retiring in 2020, owning our home since 2009. Prior to full time retirement, we looked for a home church to be active with in our retirement years. After visiting many churches, all of which were in neighborhoods, we found South Beach. We discovered a vibrant, positive, upbeat congregation and a team of Pastors that served the youth, served the community, served the needy and are working to making Newport and the surrounding communities a better place.

The demographics of the hundreds and hundreds of congregation members cut across all classes, including many of the highest paying taxpayers in Lincoln County. All are welcome, yet safety and security are paramount goals of the entire church staff and body. South Beach Church touches the poor and the rich of Newport and surrounding areas.

Over the last year, we've been serving coffee for Sunday services and special events. We get to interact with long time church members. The common theme they share as they grab coffee is that they are so happy to be here at church after the "rough" week. We meet visitors and recent transplants moving to the coast. Their common comment: South Beach Church is the reason we felt comfortable moving to the coast, or, I wish we had a church like this back home. South Beach Church draws people to the coast and keeps people from moving away- this is all positive for the tax revenue base for the city, county and state.

In addition to Sunday services, South Beach Church:

- Is utilized for weddings, memorial services, baptisms, and special events
- South Beach opened a private school serving approximately 80 children, Currently, held offsite of the church.
- South Beach opens their facility for Celebrate Recovery. Post Covid, serving almost 100 people weekly.
- South Beach Church members are working in the jails, and additional community outreaches to help keep individuals out of jail and a liability to the city's budget.
- Members are also active with the Newport Food Pantry- feeding those in tight financial scenarios.

- Special music events, feeding hundreds on Thanksgiving, providing Christmas trees to those who can't afford a tree, helping those in need of food or emergency events.

We see South Beach Church playing a large part in drawing folks to Newport, visitors spending their holiday dollars within our community. Our locals know that South Beach Church is a positive and uplifting place. The ability to place the church on the property should only enhance property values around the immediate area. The new building will allow South Beach Church to expand their giving and helpful ways. The new building will also be built to keep the sound down!

A last thought, since the property is on high ground and built to handle hundreds of people, with a kitchen, and space- should natural disaster or emergencies occur, not only the facility, yet the many volunteers from the congregation, would be available to help those displaced.

There are so many positive, not only in spirit, yet economic benefits of allowing South Beach Church to receive the Conditional Use Permit. WE hope and pray that the planning commission members will agree.

Respectfully,

Tosh & Sue McIntosh

Waldport, Oregon

Sherri Marineau

From: Lynda Palm
Sent: Tuesday, April 04, 2023 11:45 AM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

We visited SBC for the first time while on a weekend visit to the coast in 2016 from Eastern Washington. We instantly felt the connection with SBC and the community from the first time we stepped into the church! We returned again within the next couple months, and have been back for church regularly since then! We can't imagine SBC being in a different location, but the location of the land they have purchased is ABSOLUTELY PERFECT!! We visit multiple times a year, and we even felt the draw of the church and the amazing people of the church so strongly, that we even moved to Newport for a while! To be there full time in the community with SBC people who are so loving, was amazing! We now live in Eastern Washington again, so we commute as often as we can just to be a part of SBC. We volunteer for every event possible throughout the year and look forward to church on Sunday morning! (We even live stream from home when we can't be there!) It is a very special place, and to have the church on the hill in that beautiful location would be incredible! This church is special. Indescribable what it means to us.... It has been absolutely one of the best things we have ever been a part of!

Thank you!
Chris and Lynda Palm
Kennewick, WA

Sent from my iPhone

Sherri Marineau

From: Linda Thompson
Sent: Tuesday, April 04, 2023 8:41 AM
To: Public comment
Subject: South Beach Church Building Project

[WARNING] This message comes from an external organization. Be careful of embedded links.

My husband and I have attended South Beach Church for several years. It is a wonderful - God-centered, community-minded - church. We are all so excited to have new property on which to build a much-needed new structure to gather in. I pray we will have your support.

Thank you,
Linda Thompson

Sherri Marineau

From: Don Dinerstein
Sent: Tuesday, April 04, 2023 3:32 PM
To: Public comment

[WARNING] This message comes from an external organization. Be careful of embedded links.

Church offers a sense of community that not only brings people together but generates a healthy community. Please allow Southbeach church conditional use of their property to build a Christian community campus and place of worship.

Sincerely

Don Dinerstein

Dear Newport Planning Commission,

April 4, 2023

I'm writing this letter to you about the South Beach Church property that they're wanting to annex into the City limits.

My family and I reside in Toledo Oregon and have been attending South Beach Church for the last eight years and my youngest son is attending the school for their first year. We intend to keep sending him to the school, attending church, and volunteering at various events.

The South Beach Church is a huge resource to the communities in Lincoln County and the world. They have a variety of weekly programs such as Celebrate Recovery, which is a support program for people recovering from addiction and other afflictions. They also have different weekly programs for the youth and young adults in the community, as well as different events to help bring the community together and supporting missions and missionaries around the globe.

The property that they're wanting to annex is quite suitable for what they are planning, building a School with amenities and a Church.

It is my understanding that this is the first hearing of a series between the Planning Commission and the City Council, it is my hope that in this hearing the requested annexation is found to meet the criteria successfully and is recommended to the council for consideration.

Sincerely,
Jonathan Mix
& family

CITY OF NEWPORT PUBLIC NOTICE¹

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing to consider the following Conditional Use Permit request:

File No. 2-CUP-23:

Owner & Applicant: South Beach Church, owner (Dustin Capri, Capri Architecture, representative).

Request: Approval of a request per Newport Municipal Code (NMC) Section 14.03.050/"Residential Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the construction of a 19,895 sq. ft. church and 50 student private school at the subject property that is located in a R-3/"Medium Density Multi-Family Residential" zone.

Location/Subject Property: Lincoln County Assessor's Map 11-11-17-DD, Tax Lots 1201 & 1400.

Applicable Criteria: NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Application Material: The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address.

Contact: Derrick Tokos, Community Development Director, (541) 574-0626 (address above in "Reports/Application Material").

Time/Place of Hearing: Monday, April 10, 2023; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: March 15, 2023.

PUBLISHED: March 31, 2023 /News-Times.

¹ Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property according to Lincoln County tax records; (2) affected public utilities within Lincoln County; and (3) affected city departments.

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 50 100 150 200 Feet

S.E.1/4 S.E.1/4 SEC.17 T.11S. R.11W. W.M.
LINCOLN COUNTY
1" = 100'

11 11 17 DD
NEWPORT

Cancelled
100
1000
1499

Subject Properties
File No. 2-CUP-23



Revised. SEB
11/03/2004

NEWPORT
11 11 17 DD

BRATENG KHLOELLA A (TOD)
3529 SE CHESTNUT ST
SOUTH BEACH,OR 97366

CITY OF NEWPORT
CITY MANAGER
169 SW COAST HWY
NEWPORT,OR 97365

FAIRCHILD J SCOTTY
3603 SE CHESTNUT ST
SOUTH BEACH,OR 97366

HANSEN INVESTMENTS LLC
4676 COMMERCIAL ST SE
#335
SALEM,OR 97302

HOWE CHARLES R
3558 SE DOGWOOD ST
SOUTH BEACH,OR 97366

LANDWAVES INC
2712 SE 20TH AVE
PORTLAND,OR 97202

RJL LLC
PO BOX 538
NEWPORT,OR 97365

SAVAGE JOHN MARSHALL & SAVAGE
KIM ELAINE
3561 SE DOGWOOD ST
SOUTH BEACH,OR 97366

SOUTH BEACH BUSINESS PARK LLC
2113 SE 98TH ST
SOUTH BEACH,OR 97366

SOUTH BEACH CHURCH
PO BOX 950
NEWPORT,OR 97365

STATE OF OREGON, OREGON STATE
UNIVERSITY
LEASING & STRAT REAL PROP MGT
850 SW 35TH ST
CORVALLIS,OR 97333

TRYON GARY E & TRYON VERNON &
TRYON ROBERT & TRYON LOREN
PO BOX 975
WALDPOR,OR 97394

YECK FRED ARTHUR TRUSTEE
PO BOX 352
NEWPORT,OR 97365

CAPRI ARCHITECTURE
ATTN: DUSTIN CAPRI
747 SW 13TH ST
NEWPORT,OR 97365

CIVIL ENGINEERING SERVICES, INC
ATTN: TIM GROSS
609 SW HURBERT ST
NEWPORT,OR 97365

NW Natural
ATTN: Dave Sanders
1405 SW Hwy 101
Lincoln City, OR 97367

Email: Bret Estes
DLCD Coastal Services Center
brett.estes@dlcd.oregon.gov

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

Central Lincoln PUD
ATTN: Ty Hillebrand
PO Box 1126
Newport OR 97365

Charter Communications
ATTN: Keith Kaminski
355 NE 1st St
Newport OR 97365

****EMAIL****
odotr2planmgr@odot.state.or.us

Joseph Lease
Building Official

Rob Murphy
Fire Chief

Aaron Collett
Public Works

Beth Young
Associate Planner

Jason Malloy
Police Chief

Steve Baugher
Finance Director

Laura Kimberly
Library

Michael Cavanaugh
Parks & Rec

Spencer Nebel
City Manager

Clare Paul
Public Works

Derrick Tokos
Community Development

David Powell
Public Works

Lance Vanderbeck
Airport

EXHIBIT 'A'
(Affected Agencies)

(2-CUP-23)

Sherri Marineau

From: Sherri Marineau
Sent: Wednesday, March 15, 2023 8:12 AM
To: Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Clare Paul; David Powell; Aaron Collett; Lance Vanderbeck; Steve Baugher
Subject: Conditional Use Permit 2-CUP-23
Attachments: Notice - File 2-CUP-23.pdf

Attached is a notice concerning a land use request. The notice contains an explanation of the request, a property description and map, and a date for the public hearing. Please review this information to see if you would like to make any comments. We must have your comments at least 10 days prior to the hearing period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Sherri Marineau

Executive Assistant
 City of Newport
 Community Development Department
 169 SW Coast Highway
 Newport, OR 97365
 ph: 541.574.0629, option 2
 fax: 541.574.0644
s.marineau@newportoregon.gov



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

Sherri Marineau

From: Sherri Marineau
Sent: Wednesday, March 15, 2023 8:12 AM
To: 'odotr2planmgr@odot.state.or.us'; Brett Estes
Subject: Conditional Use Permit - 2-CUP-23
Attachments: Notice - File 2-CUP-23.pdf

Attached is a notice concerning a land use request. The notice contains an explanation of the request, a property description and map, and a date for the public hearing. Please review this information to see if you would like to make any comments. We must receive comments prior to the last day of the comment period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Sherri Marineau

Executive Assistant
 City of Newport
 Community Development Department
 169 SW Coast Highway
 Newport, OR 97365
 ph: 541.574.0629, option 2
 fax: 541.574.0644
s.marineau@newportoregon.gov



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

CITY OF NEWPORT

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, April 10, 2023, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-CUP-23, a request submitted by owner, South Beach Church, (Dustin Capri, Capri Architecture, representative), for a conditional use permit filed pursuant to Newport Municipal Code (NMC) Section 14.03.050/"Residential Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the construction of a 19,895 sq. ft. church and 50 student private school at the subject property that is located in a R-3/"Medium Density Multi-Family Residential" zone. The property is located at the Lincoln County Assessor's Map 11-11-17-DD, Tax Lots 1201 & 1400. The applicable criteria per NMC Chapter 14.34.050 are that: 1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above).

FOR PUBLICATION ONCE ON FRIDAY, March 31, 2023.

An opening reception for new art exhibits at the Newport Visual Arts Center, 777 NW Beach Drive. Free, 2 to 6 p.m. Info: www.coastarts.org/ events

Award-winning songwriter Karl Smiley performs his own brand of guitar picking from 6 to 8:30 p.m. at The Drift Inn, located at 124 Highway 101 N in Yachats. For information, call 541-547-4477.

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music. Learn more
Facebook.

3/31/2023 PUBLIC NOTICES

PURSUANT TO ORS CHAPTER 819

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 03/31/2023. The sale will be held at 10:00am by ROWLEY'S TOWING, 4822 S COAST HWY S. BEACH, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Traci P. McDowell, Attorney for Personal Representative YAQUINA LAW, LLC 380 SW 2ND ST., PO BOX 1987 NEWPORT, OR 97365, (541) 272-5500 Fax: (541) 265-7633 Email: traci@yaquinlaw.com M31, A7, A14 43-14

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN In the Matter of the Estate of PAHL SCHARPING, Deceased. Case No. 23PB02272 NOTICE TO INTERESTED PERSONS NOTICE IS HEREBY GIVEN that Lynn Vu has been appointed personal representative of the Estate of Pahl Scharping. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative through the personal representative's attorney at PO Box 1987, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Traci P. McDowell, Attorney for Personal Representative YAQUINA LAW, LLC 380 SW 2ND ST., PO BOX 1987 NEWPORT, OR 97365 (541) 272-5500 PERSONAL REPRESENTATIVE: Lynn Vu 106 South St. Randolph, MA 02368 LAWYER FOR PERSONAL REPRESENTATIVE: Traci P. McDowell, OSB #184063 PO Box 1987 Newport, OR 97365 Telephone: (541) 272-5500 Fax: (541) 265-7633 Email: traci@yaquinlaw.com M31, A7, A14 44-14

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN In the Matter of the Estate of JUDITH ANN GERMAIN-KITCHEN, Deceased. Case No. 23PB02270 NOTICE TO INTERESTED PERSONS NOTICE

IS HEREBY GIVEN that Trevor Kitchen has been appointed personal representative of the Estate of Judith Ann Germain-Kitchen. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative through the personal representative's attorney at PO Box 1987, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Traci P. McDowell, Attorney for Personal Representative YAQUINA LAW, LLC 380 SW 2ND ST., PO BOX 1987 NEWPORT, OR 97365 (541) 272-5500 PERSONAL REPRESENTATIVE: Trevor Kitchen 1144 NW 22nd Ave. Camas, WA 98607 LAWYER FOR PERSONAL REPRESENTATIVE: Traci P. McDowell, OSB #184063 PO Box 1987 Newport, OR 97365 Telephone: (541) 272-5500 Fax: (541) 265-7633 Email: traci@yaquinlaw.com M31, A7, A14 43-14

NOTICE TO INTERESTED PERSONS

NOTICE is given that in the Circuit Court for the State of Oregon for the County of Lincoln, In the Matter of the Estate of John Duane Flakne, Case No. 23PB01822, Dawn G Flakne has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative at 1340 Logsdon Rd, Siletz, Oregon 97380, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyer for the personal representative. Margaret E Dailey, Attorney at Law, P O Box 552, Newport, Oregon 97365, (541) 265-8805. M24, M31, A7 40-07

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING
The City of Newport Planning Commission will

hold a public hearing on Monday, April 10, 2023, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-CUP-23, a request submitted by owner, South Beach Church, (Dustin Capri, Capri Architecture, representative), for a conditional use permit filed pursuant to Newport Municipal Code (NMC) Section 14.03.050/"Residential Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the construction of a 19,895 sq. ft. church and 50 student private school at the subject property that is located in a R-3/"Medium Density Multi-Family Residential" zone. The property is located at the Lincoln County Assessor's Map 11-11-17-DD, Tax Lots 1201 & 1400. The applicable criteria per NMC Chapter 14.34.050 are that: 1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the

applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above). M31 33-31

NOTICE OF DEPOE BAY

CITY COUNCIL PUBLIC HEARING
Tuesday, April 18, 2023, 6:00 p.m.
ADOPTION OF ORDINANCE NO. 3XX-23, AN ORDINANCE AMENDING THE DEPOE BAY ZONING ORDINANCE (ORDINANCE NO. 24, AS AMENDED), ENACTING PROVISIONS TO ESTABLISH TOWNHOUSE DEVELOPMENT REGULATIONS.
APPLICANT: City of Depoe Bay DESCRIPTION: The City of Depoe Bay is in the process of updating the Depoe Bay Zoning Ordinance to adopt development regulations for townhouse developments within certain Residential (R-2, R-3, R-4, and R-5), Commercial (C-1) and Industrial (I-1) zones of the City (Case File #1-TA-22). The proposed regulations have been reviewed by the Depoe Bay Planning Commission at a series of public hearings beginning on November 9, 2022, and concluding with a recommendation to adopt draft Ordinance No. 3XX-23 on March 8, 2023. As recommended, Ordinance No. 3XX-23 would:
• Amend Depoe Bay Zoning Ordinance (DBZO) Section 152.003 "Definitions" to add definitions of the terms "townhouse development," "townhouse lot," and "townhouse parent lot";
• Amend DBZO Sections 152.026 through 152.030, inclusive, and 152.033 "Use Zones" to add "townhouse development" as either a permitted outright or a conditional use in the R-2 (Residential), R-3 (Residential), R-4 (Residential), R-5 (Residential), C-1 (Retail Commercial), and I-1 (Light Industrial) zones, dependent upon the consistency of a project with specific development standards; and,
• Add a new subsection (Q) "Townhouse Development" to DBZO Section 152.136 "Standards Governing Conditional Uses" to establish development standards including (but not limited to): development density; minimum townhouse lot size; maximum number of townhouses per building; minimum spacing between buildings; pedestrian amenities and landscaping; off-street parking and driveways; and use and development standards for tourist accommodations in townhouses.
APPLICABLE CRITERIA: The proposed amendments are legislative matters and not quasi-judicial. The City Council will evaluate the proposal in accordance with DBZO Sections 152.185 through 152.188, inclusive, "Amendments," and when applicable, ORS Chapters 197 and 227. LOCATION: The proposed amendments would be applicable within the R-2, R-3, R-4, R-5, C-1 and I-1 zones. APPLICATION MATERIALS: Application materials, documents and evidence submitted by or on behalf of the applicant are available for inspection at City Hall and can be obtained at cost. Copies of the staff report for this case are also available for review and may be purchased at Depoe Bay City Hall, 570 SE Shell Avenue, seven days prior to the hearing. TESTIMONY: Testimony may be submitted in written or oral form. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, either in person or in writing, or failure to provide statements/evidence sufficient to afford the City Council an opportunity to respond to the issues precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. The comment period for written testimony expires on Tuesday, April 18, 2023, at 5:00 p.m. Send letters to Depoe Bay City Hall or email planner@cityofdepoebay.org. CONTACT: Kit Fox, AICP, City Planner (541) 765-2361 x15, planner@cityofdepoebay.org. TIME/PLACE: Tuesday, April 18, 2023, 6:00 P.M., Depoe Bay City Hall, 570 SE Shell Avenue, Depoe Bay, OR 97341. Mail comments to P.O. Box 8, Depoe Bay, OR 97341. Depoe Bay City Hall is accessible to the disabled. If special accommodations are needed, please contact the City Recorder at 541-765-2361 forty-eight hours in advance of the meeting so that appropriate assistance can be provided. APPS TEXT AMENDMENTS/2022/#1-TA-22/NOTICE. M31 45-31

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN Probate Department Case No. 23PB01287 NOTICE TO INTERESTED PERSONS In the Matter of the Estate of THOMAS COWAN MANSKE, Deceased. NOTICE IS HEREBY GIVEN that James Manske is appointed Personal Representative of the above Estate. All persons having claims against the Estate are required to present them to the undersigned attorney for the personal representative at 8555 SW Apple Way, Suite 300, Portland, Oregon 97225, within 4 months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Dated and first published on March 17, 2023. James Manske, Personal Representative, Jennifer Martin, OSB No. 190038, Hagen O'Connell Hval LLP, Attorneys for Personal Representative, 8555 SW Apple Way, Suite 300, Portland, Oregon 97225, T: (503) 227-2900, jmartin@hagenoconnell.com M17, M24, M31 26-31

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT ESTATE OF DALE ALLEN STUDEBAKER, DECEASED CASE No. 23PB01662 NOTICE TO INTERESTED PERSONS Notice is given pursuant to ORS 113.155 that Annetta Goldman has been appointed personal representative of the above estate. All persons having claims against the estate are required to present them within four (4) months after the date of the first publication of this Notice, or their claims may be barred. Claims are to be presented at the address of the attorney for the personal representative, set forth below. All persons whose rights may be affected by this estate proceeding may obtain additional information from the records of the Court, the personal representative, or the attorney for the personal representative. Dated and first published on March 17, 2023. James Manske, Personal Representative, Jennifer Martin, OSB No. 190038, Hagen O'Connell Hval LLP, Attorneys for Personal Representative, 8555 SW Apple Way, Suite 300, Portland, Oregon 97225, T: (503) 227-2900, jmartin@hagenoconnell.com M17, M24, M31 26-31

ADVERTISE 265.8571
In the news-times

Sherri Marineau

From: Mark Poorman
Sent: Wednesday, April 05, 2023 9:12 AM
To: Public comment
Subject: Conditional Use Permit - South Beach Church Facility

[WARNING] This message comes from an external organization. Be careful of embedded links.

I strongly encourage approval of the conditional use permit for construction of the new South Beach Church Facility.

South Beach Church does not only serve its church members, but is a vital part of the overall Newport community. Its many programs focus on serving not only its members, but anyone in need. An example of this would be the annual Thanksgiving dinner prepared and offered to anyone who comes in the door, truly an outreach to the entire community.

We live in a sea port, where people work in a very dangerous environment. When bad things happen, there is often someone from the church there, helping to counsel and guide those affected through the difficult times.

A church make a great addition to a residential neighborhood. They are a very low key resident in the neighborhood, with only a few busy times during a normal week. The rest of the time a very nice well maintained facility will have very low activity, it's hard to imagine a better activity for a neighborhood.

South Beach Church has grown dramatically over the past ten years, and is near the max for its current facility. Approval of the conditional use permit will allow the church to continue to prosper, and to provide benefits to the entire Newport area. I strongly encourage approval of the proposed conditional use permit.

Mark Poorman

Newport OR

Sherri Marineau

From: JOHN
Sent: Friday, April 07, 2023 9:29 AM
To: Public comment
Cc: Marijo Byers
Subject: South Beach Church Conditional Use Permit

[WARNING] This message comes from an external organization. Be careful of embedded links.

South Beach Church has been faithfully serving the community of Newport for years. Many coastal residents travel an hour or more every week to attend services. Those who are vacationing in the area find South Beach a warm, friendly place to gather and worship. As a Christ-centered church, South Beach Church provides Biblical teaching and fellowship throughout the week, helping to establish and support families, the core of any community. The various ministries and outreach programs offer much needed services to a wide range of individuals – men, women, youth, children and those who are struggling with addictions and other personal challenges. Every week I hear from people who call South Beach home and have been blessed by the hard work and dedication of the pastors and staff.

The new property offers the opportunity for South Beach church to continue and expand its services to those in the Newport area and beyond. In a time when so many are hurting and troubled, South Beach offers hope and real help to all who are searching for answers. That is why I ask you to approve the Conditional Use Permit for South Beach Church.

Thank you,

John & Marijo Byers

Sherri Marineau

From: Pat Craven
Sent: Friday, April 07, 2023 11:55 AM
To: Public comment
Subject: South Beach Church Buildings Permit Approval

[WARNING] This message comes from an external organization. Be careful of embedded links.

Reasons you should approve the building permit for South Beach Church so we can move forward building our church:

1. Our many programs help people no matter who they are.
2. With the building of our church, we could expand our programs.
3. Have a larger parking lot--no more parking on the street.
4. Have a sound proof building.

All will be positive for the community.

I am a proud member of South Beach Church,

Patricia Craven

South Beach, Oregon 97366

GIG

Sherri Marineau

From: dustin capriarchitecture.com
Sent: Friday, April 07, 2023 2:24 PM
To: Derrick Tokos; Sherri Marineau
Cc: amanda capriarchitecture.com; Luke Frechette; Tobias Cook
Subject: SBC - Revised Rendering
Attachments: Revised Rendering_OPT.pdf

[WARNING] This message comes from an external organization. Be careful of embedded links.

Derrick and Sherri,

Can this revised rendering be added to the Planning Commission package? I spoke with Pastor Luke about the signage concerns identified in the staff report and we feel that this more accurately depicts the final perspective view of the new church facility.

Thanks!
Dustin and Amanda
--

Dustin J. Capri, AIA, NCARB, LEED AP ND
Architect

Capri Architecture, LLC

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PO Box 950, Newport, OR 97365
541-272-3377 souchbeachchurch@gmail.com southbeachchurch.org

capriarchitecture
541.961.0503 info@capriarchitecture.com



ENTRY RENDERING

Sherri Marineau

From: Derrick Tokos
Sent: Friday, April 07, 2023 3:05 PM
To: Sherri Marineau
Subject: FW: Conditional Use Application of South Beach Church, File No. 2-CUP-23

From: Bonnie Serkin
Sent: Friday, April 7, 2023 1:52 PM
To: Derrick Tokos
Cc: Robert Cowan ; Ryslinge, Birgitte ; Liane
Brakke-Pound ; Will Emery
Subject: Conditional Use Application of South Beach Church, File No. 2-CUP-23

[WARNING] This message comes from an external organization. Be careful of embedded links.

Derrick Tokos,
Community Development Director
City of Newport

Dear Derrick ,

On behalf of Landwaves, Inc., I am submitting these comments in connection with the above application of South Beach Church for a conditional use permit.

It came as a surprise to us that the Church has not hosted informational meetings with neighbors to introduce their project, particularly to residents of the adjacent Wilder community. The Church - and Pastor Luke in particular - is known for reaching out to the people of Newport, and it has always had a good relationship with us as the developer of Wilder. There are a lot of questions to be answered about this project, something that we know from our own development experience is best done before the formal hearing on technical land use criteria. I would urge the Planning Commission to consider a continuance of the Monday night hearing until such an informational session can be scheduled.

As for substance of the conditional use application, based on last summer's experience with a Church-sponsored event on their property, our concerns center around traffic control on SE 40th and Harborton Streets, parking along those streets, and noise parameters for Church and school gatherings. Traffic control by Church personnel should be required for things like Sunday services and other well-attended events so that vehicles traveling to and from Wilder, Oregon Coast Community College, and the OSU housing campus are not impeded by Church or school-related traffic. Is the Church planning to provide bus or van service for their members? Is the on-site parking even with overflow areas adequate? Parking should be restricted along SE 40th and Harborton Streets to further facilitate traffic flow (and avoid encroachment on areas outside of the public right of way). The noise limits that are being imposed should be revisited after the facility has been in operation for some period of time.

It would also be useful to clarify that access to the Church property will be via SE 40th and Chestnut Streets, and that no access will be required to SE Harborton Street. We have a good understanding with Pastor Luke about there being no regular access across our development property to Harborton Street, except foot traffic on special occasions like the

summer fun run. This will be an important consideration for a developer of our multi-family parcel adjacent to the Church property.

Thank you for your consideration.

Bonnie Serkin
Chief Operating Officer
Landwaves, Inc.

Cc: Oregon Coast Community College
OSU Hatfield Marine Science Center

Sherri Marineau

From: Derrick Tokos
Sent: Friday, April 07, 2023 3:05 PM
To: Sherri Marineau
Subject: FW: SBC - Wilder Outreach
Attachments: File 2-CUP-23 Staff Report and Attachments.pdf

From: dustin capriarchitecture.com
Sent: Friday, April 7, 2023 2:17 PM
To: Bonnie Serkin <bonnie@eenw.com>; Derrick Tokos ; Sherri Marineau
Cc: amanda capriarchitecture.com ; Luke Frechette ;
Tobias Cook
Subject: SBC - Wilder Outreach

[WARNING] This message comes from an external organization. Be careful of embedded links.

Bonnie,

It was a pleasure speaking with you today. Per our conversation, extensive public process and notice has occurred for this project through the annexation process and the conditional use permit process. We have attached the City of Newport Staff Report for the CUP per your request.

I'm very hopeful that all potential concerns from you and the neighbors in the Wilder Development are alleviated once you review the staff report and the proposed development. We are looking forward to hopefully getting the Planning Commission's approval on Monday evening so we can finally proceed with the construction of this project. Please encourage any neighbors from your development to participate in the meeting on Monday night so they can address their concerns, answer any questions they may have, and move forward with this project. Per our conversation, we understand you plan to share this Staff Report with the neighbors today.

Derrick and Sherri - Please include this email in the public record for the CUP process.

Enjoy Palm Springs and have a nice weekend!

Dustin
--

Dustin J. Capri, AIA, NCARB, LEED AP ND
Architect

Capri Architecture, LLC

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Sherri Marineau

From: Derrick Tokos
Sent: Friday, April 07, 2023 4:56 PM
To: Sherri Marineau
Subject: FW: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Please include in the record.

Derrick

From: Bonnie Serkin
Sent: Friday, April 7, 2023 4:34 PM
To: Derrick Tokos
Subject: Re: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Hi Derrick,

Yes, please consider it a request for continuance. I'm hearing about letters in the file written by non-Wilder people suggesting that the Church will be a great neighbor for reasons including being an emergency preparedness facility. I believe the Wilder neighbors ought to have a chance to speak for themselves and to explore how the Church's plans dovetail with what OCCC is doing and what Hatfield will do.

The Wilder homeowners were not within the notice area for the conditional use hearing, so a continuance would provide a useful opportunity for them to get questions answered by the Church.

Thank you.

Bonnie

Sent from my iPhone

On Apr 7, 2023, at 3:34 PM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Bonnie,

ORS 197.796(6)(a) provides that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. It further provides that the local hearings authority shall grant such request by continuing the public hearing or leaving the record open for additional written evidence, arguments or testimony.

Should we consider your email such a request?

Derrick I. Tokos, AICP
Community Development Director
City of Newport

169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Bonnie Serkin
Sent: Friday, April 7, 2023 1:52 PM
To: Derrick Tokos
Cc: Robert Cowan ; Ryslinge, Birgitte
; Liane Brakke-Pound Will Emery
Subject: Conditional Use Application of South Beach Church, File No. 2-CUP-23

[WARNING] This message comes from an external organization. Be careful of embedded links.

Derrick Tokos,
Community Development Director
City of Newport

Dear Derrick ,

On behalf of Landwaves, Inc., I am submitting these comments in connection with the above application of South Beach Church for a conditional use permit.

It came as a surprise to us that the Church has not hosted informational meetings with neighbors to introduce their project, particularly to residents of the adjacent Wilder community. The Church - and Pastor Luke in particular - is known for reaching out to the people of Newport, and it has always had a good relationship with us as the developer of Wilder. There are a lot of questions to be answered about this project, something that we know from our own development experience is best done before the formal hearing on technical land use criteria. I would urge the Planning Commission to consider a continuance of the Monday night hearing until such an informational session can be scheduled.

As for substance of the conditional use application, based on last summer's experience with a Church-sponsored event on their property, our concerns center around traffic control on SE 40th and Harborton Streets, parking along those streets, and noise parameters for Church and school gatherings. Traffic control by Church personnel should be required for things like Sunday services and other well-attended events so that vehicles traveling to and from Wilder, Oregon Coast Community College, and the OSU housing campus are not impeded by Church or school-related traffic. Is the Church planning to provide bus or van service for their members? Is the on-site parking even with overflow areas adequate? Parking should be restricted along SE 40th and Harborton Streets to further facilitate traffic flow (and avoid encroachment on areas outside of the public right of way). The noise limits that are being imposed should be revisited after the facility has been in operation for some period of time.

It would also be useful to clarify that access to the Church property will be via SE 40th and Chestnut Streets, and that no access will be required to SE Harborton Street. We have a good understanding with Pastor Luke about there being no regular access across our development property to Harborton Street,

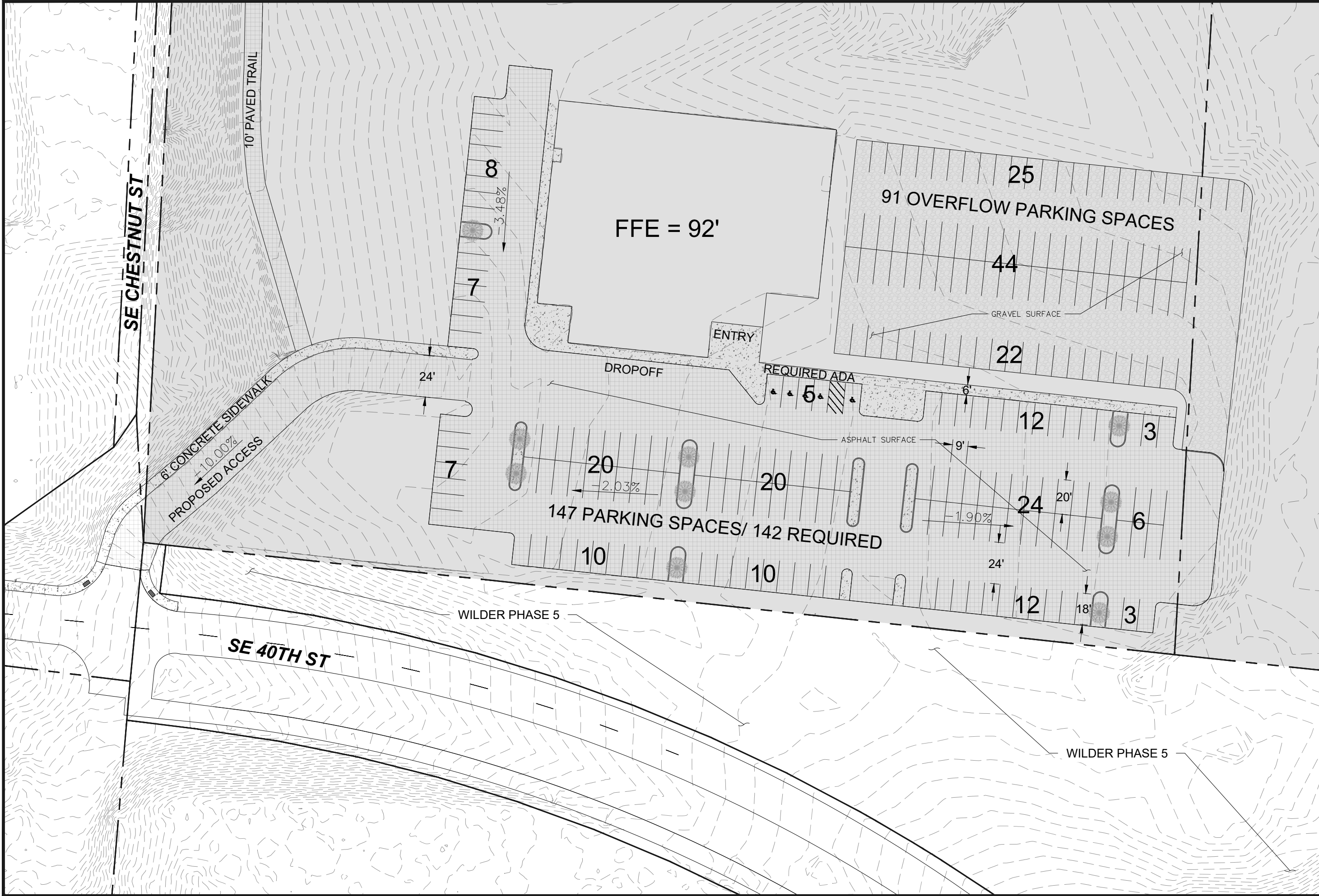
except foot traffic on special occasions like the summer fun run. This will be an important consideration for a developer of our multi-family parcel adjacent to the Church property.



Thank you for your consideration.

Bonnie Serkin
Chief Operating Officer
Landwaves, Inc.

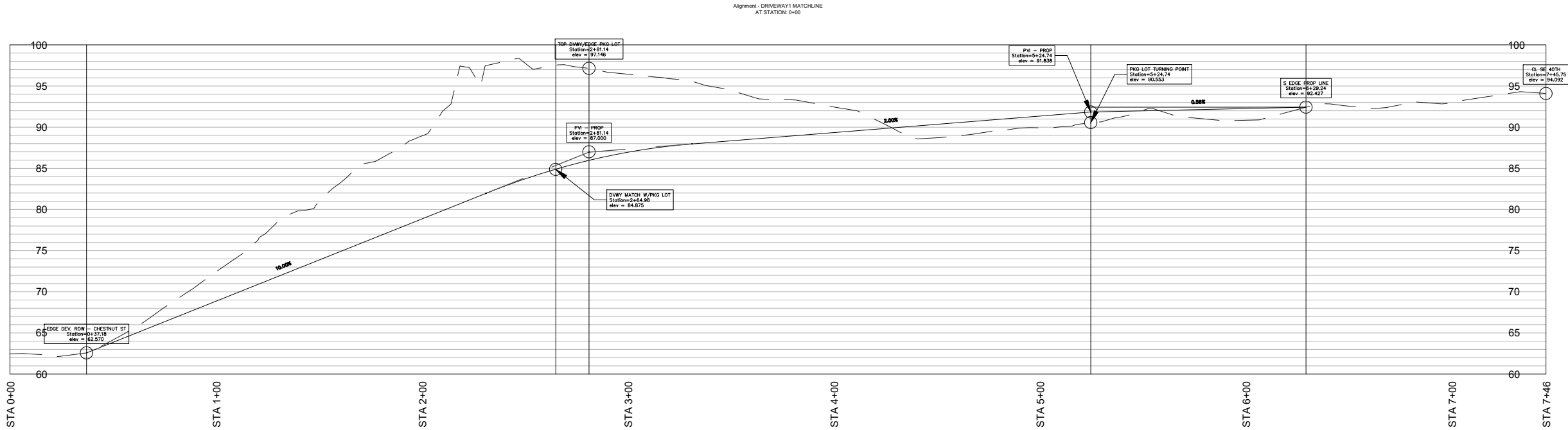
Cc: Oregon Coast Community College
OSU Hatfield Marine Science Center

DATE: 4/10/23 FILE: C:\CW_Projects\2204 Misc Private Engineering Work\2204-194 SBC Site Development\03 Preliminary Design\Drawings\DWG\SBC SITE WORKING 1-3-23.dwg



 Civil West Engineering Services, Inc.	SOUTH BEACH CHURCH LINCOLN COUNTY, OREGON	
	PRELIMINARY GRADING	PROPOSED PARKING LAYOUT
 1" = NTS	DRAWN BY: TEG DATE: APRIL 2023	
FIGURE EX1		

Alignment - DRIVEWAY1 MATCHLINE
AT STATION: 0+00



Alignment - DRIVEWAY1 MATCHLINE
AT STATION: 7+46

REV.	DATE	DESCRIPTION	BY
DESIGNED BY: TEG		DRAWN BY: TEG	CHECKED BY: TEG
PROJECT NO: 2204-194			

SOUTH BEACH CHURCH LINCOLN COUNTY, OREGON
SBC SITE DEVELOPMENT
DRIVEWAY ALIGNMENT

Date	Sheet No.
APRIL 2023	EX3



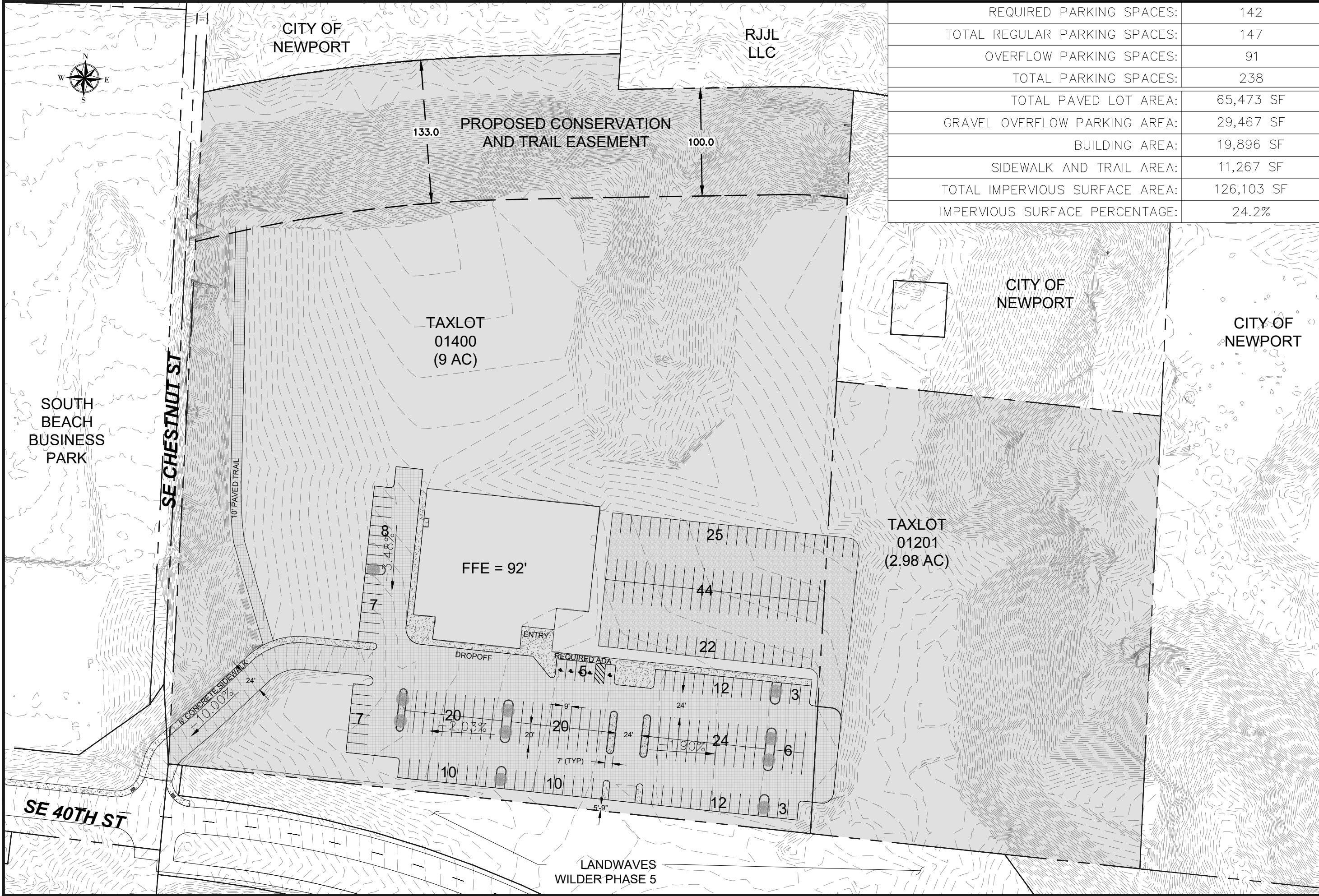
Civil West
Engineering Services, Inc.

609 SW HURBERT ST.
NEWPORT OR 97365

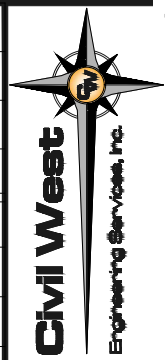
541-264-7040
www.civilwest.com

PRELIMINARY

DATE: 4/10/23 FILE: C:\CW_P\Projects\2204 Misc Private Engineering Work\2204-194 SBC Site Development\03 Preliminary Design\Drawings\DWG\SBC SITE WORKING 1-3-23.dwg



REQUIRED PARKING SPACES:	142
TOTAL REGULAR PARKING SPACES:	147
OVERFLOW PARKING SPACES:	91
TOTAL PARKING SPACES:	238
TOTAL PAVED LOT AREA:	65,473 SF
GRAVEL OVERFLOW PARKING AREA:	29,467 SF
BUILDING AREA:	19,896 SF
SIDEWALK AND TRAIL AREA:	11,267 SF
TOTAL IMPERVIOUS SURFACE AREA:	126,103 SF
IMPERVIOUS SURFACE PERCENTAGE:	24.2%



SOUTH BEACH CHURCH
LINCOLN COUNTY, OREGON

PRELIMINARY GRADING
PROPOSED SITE PLAN

1" = 80'
DRAWN BY: TEG
DATE: APRIL 2023

FIGURE
EX2

Sherri Marineau

From: AMANDA MIDDLEBROOKS
Sent: Friday, April 07, 2023 10:22 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

I have had the blessing of going to South Beach church for eleven years. I have been going to church for over 50 years in other cities and states. Every church I have ever gone to has always been in a neighborhood. In fact, all the churches in Newport are in neighborhoods also. South Beach offers so much to the community. They have many effective programs for all ages. They reach out and help so many people. The church is full all week long, not just Sunday. There are Bible Studies, Life Groups, Youth programs and many wonderful acts of service throughout the year. South Beach Church would be an asset to any neighborhood. It's welcoming, loving and focused on needs. I love being part of South Beach. God has greatly blessed and used this church in so many ways. It will be wonderful being able to expand our programs and ministries with this new property. We will be able to so serve even more people in our community. Thank you for allowing us to share our thoughts and feelings concerning our new property.

Amanda Middlebrooks
Newport Resident

Sherri Marineau

From: Bruce Koike
Sent: Sunday, April 09, 2023 12:03 PM
To: Public comment
Subject: Planning Commission: South Beach Church Application

[WARNING] This message comes from an external organization. Be careful of embedded links.

Dear Planning Commission members,

I am writing in support of South Beach Church's (SBC) conditional use permit application to construct church/educational buildings.

Since 2008 SBC has served the local population by investing in the lives of individuals. One such contribution includes providing long-term physical, emotional and strategic support to individuals who have diverse needs. SBC also invests in the lives of Lincoln County youth by providing mentoring in a safe and supportive environment. Here, Lincoln County School District students connect and become supportive of each other. This type of community building between individuals has the potential to have a life-long, positive impact on participants.

By having a footprint of their own, SBC establishes a solid base of operations from which programs can expand and continue to serve others in the community.

Thank you for considering the approval of the SBC conditional use permit application. If you have any questions, do not hesitate to contact me.

Thank you,

Bruce Koike

former OCCC interim president and
Aquarium Science Program founding director

Newport, OR 97365

Sherri Marineau

From: gary brown
Sent: Friday, April 07, 2023 7:02 PM
To: Public comment
Cc: gary brown; Luke Frechette
Subject: Building the new South Beach Church, the City Planning Meeting

[WARNING] This message comes from an external organization. Be careful of embedded links.

To whom it may concern:

My husband and I have attended South Beach Church for over ten years. We are blessed to have them in our community. Let us tell you why.

We have seen love and support poured out to the city of Newport and to the people of Lincoln County in numerous ways.

We've seen hundreds of people fed at Thanksgiving year after year. Even during COVID shutdowns, parishioners collected hundreds of turkeys and thousands of dollars to feed those in need. None of this came out of taxpayers funds.

The people of our church have collected coats, clothing, school supplies, canned food donations and financial aid for our community on a consistent basis.

We pick up garbage over the bridge, we help those that help the homeless. When people were affected by wildfires, we invited them to 'dry camp' at the church parking lot.

We collect baby bottles and diapers for care packages to be handed out at Pacific Community Hospitals for the new babies born in our community. I work at the Samaritan Health Clinics and it makes me so proud to see God's love poured out to these new families.

We have programs that help prisoners and their children. We have a Celebrate Recovery program that encourages and supports those struggling with addiction.

We reach out globally as well with so many missions. Come and join us and hear about the impact we make in Ukraine, Mexico, Lebanon, Greece and so on.

There have been checks written to help people in our community pay bills, seek shelter and get back home after a terrible tragedy. We have helped the foster care system and the beautiful children in their care.

There are hundreds of thousands of instances where the South Beach parishioners have been helped on an individual basis. We are asking you to allow us to build our church on the hill. We promise to continue to support and love. In fact, we expect to do more and more to show our Lord's love to our neighbors.

This makes us proud and honored to see how the people at South Beach Church spread God's love.

We ask that you adjust the zoning to allow us to build this church.

Warmly and respectfully,

Gary and Melody Brown

Waldport, OR. 97394

Sherri Marineau

From: j hundley on behalf of j hundley
Sent: Sunday, April 09, 2023 6:24 PM
To: Public comment
Subject: comments related to SOUTH BEACH CHURCH DEVELOPMENT for Newport, Oregon

[WARNING] This message comes from an external organization. Be careful of embedded links.

Attention Planning Commission Members,

On April 10th, 2023 as residents of the City of Newport we will address the need for a Christian Church to be developed in Residential South Beach, Oregon. Without a doubt, Newport DEFINITELY NEEDS community churches like South Beach Church to serve the needs of the Newport area residents and transients. The solid foundation principles that South Beach Church thrives on as SERVING, GIVING, FRIENDSHIP, CARING, offering HOPE to individuals are so important to Newport especially now. Our city is “disconnected” as the “friendliest” as once was known. People need comfort in trusting and feeling loved especially now. South Beach Church offers so much comfort and aid to all ages of our community.

My prayer is that the growth of this CHURCH MAY CONTINUE TO OCCUR. Nothing matters more to the health of Newport.

Jaclyn Hundley

Sent from [Mail](#) for Windows

Sherri Marineau

From: Arla Frechette
Sent: Saturday, April 08, 2023 1:44 PM
To: Public comment
Subject: South Beach Church Building Project

[WARNING] This message comes from an external organization. Be careful of embedded links.

Good afternoon,
We are in favor of the
South Beach Church
building project on our newly acquired property.
The existing church has been a light in our community ever since we started it in Monty's Automotive Shop over 20
years ago.
We thank you!
Joe and Arla Frechette

Sent from my iPhone

Sherri Marineau

From: Neal Rea
Sent: Saturday, April 08, 2023 10:25 AM
To: Public comment
Subject: Re: South Beach Burch conditional use permit submission

[WARNING] This message comes from an external organization. Be careful of embedded links.

On Sun, Mar 26, 2023 at 6:12 PM Neal Rea wrote:

To: City of Newport Planning Commission

From: Neal Rea, Newport resident living at SE 5th Street since January 2017

RE: South Beach Church submission for a conditional use permit

I am sending this message to voice my support for South Beach Church's conditional use permit submission to the Newport, Oregon planning commission.

My family purchased a house in Newport in September of 2013. We visited local churches and made the decision to get involved in the lives of the people attending South Beach Church. We liked that we could contribute our time, talents and treasures to a very diverse group of people and have loved seeing many blessings flow out of the church and into greater Newport and the surrounding communities.

Having been alive for 68+ years I have attended many churches in many cities and I am encouraged with the patience South Beach Church has shown in their search for land to build a church campus for the good of Newport and surrounding communities. The property purchased by South Beach Church is ready and safe for development. The persons who will develop and improve the property are excited to support the neighboring businesses, residents and college.

A South Beach Church attenders

- gives a hand up to their neighbors, visitors to our town, any person who is struggling with an addiction, is homeless or just down on their luck,
- gives supporting local businesses, schools, faith and non-faith based programs,
- volunteers where there are needs in our communities.

Central Oregon coast communities need South Beach Church.

South Beach Church needs your support and approval of its submission for a conditional use permit to build a church campus on the property they own in South Beach.

Thank you for the work you do and service to our town.

Sherri Marineau

From: Denise Guild
Sent: Monday, April 10, 2023 9:11 AM
To: Public comment
Subject: Request for reconsideration and deferral of conditional use permit for South Beach Church Facility

[WARNING] This message comes from an external organization. Be careful of embedded links.

Request: I am a concerned resident of the Wilder Community adjacent to the proposed project site. It is clear that the proposed project would generate significant negative impacts on our community. The staff report should be reconsidered, and the Planning Commission decision deferred, in light of partial and misleading information contained in the application.

1. Location of the project. The application describes surrounding land uses as follows: *"A wetland separates the property from mixed residential uses to the north. Light industrial uses exist downslope to the west. Undeveloped residential property is situated to the south and land to the east is forested and outside the city limits."* This is grossly misleading. The project is adjacent to a large mixed use residential community within the city limits, as it sits at the boundary of the Wilder Community and the Oregon Coast Community College, and shares the sole route for ingress and egress for those communities as well as being upstream of all public facilities. Any impacts will be most closely experienced by residents there, not the more distant land uses described. **The staff report should analyze impacts on traffic, noise, light, and public facilities for those established communities.**

2. Actual uses of the project. The application states that the church would hold one service on Sundays, possibly expanding to two. However the church already holds three services on Sundays, throughout the day. The application also envisions weekday or evening meetings of unspecified size and frequency, in addition to school on weekdays. The implication is that the site could be trafficked seven days a week, from morning through evening, creating a major traffic impact on the adjacent communities. **The staff report should detail and analyze the actual uses and schedules that the owner is already demonstrating at its current site, as well as future plans, and not base recommendations on the assurances of lesser activity at the new expanded site that are already regularly exceeded.**

3. Public facilities. With respect to traffic and parking, the application is based on an assumption of vehicle occupancy of 4 persons per vehicle, parking for 147 vehicles, and a design load of 18 peak hour trips, all for a facility designed for up to 1,000 people with 7 day a week usage. **These numbers are absurd.** Average vehicle occupancy in Newport is surely below 2 persons per vehicle, implying over 350 additional vehicles needing streetparking on that sole ingress/egress route on SE 40th Street. The envisioned schedule of "Men's and Women's Bible Studies and Youth Groups, typically held in the evenings" will obviously generate more than 18 PM peak hour trips on most days when they are scheduled. **The staff report should request actual event schedules, transportation and parking plans and take into account the obvious incentives to expand this schedules and their consequent impacts on the adjacent communities.**

In summary. The application presents an overly optimistic scenario and assessment that actual experience do not support. **The Commission should direct the owner to provide additional details as described above, and direct the Planning Department to revise its analyses and recommendations accordingly.**

Thank you for your attention,
Denise Guild

Sherri Marineau

From: Bonnie Van Den Bogaard
Sent: Monday, April 10, 2023 3:26 PM
To: Public comment
Subject: SOUTH BEACH CHURCH

[WARNING] This message comes from an external organization. Be careful of embedded links.

Thank you Newport City Council for taking the time to hear the request for SBC.
SBC is in dire need of a new church building as we are growing especially in the ways of serving children.
SBC is a giving church as we acknowledge that God is generous to all of mankind and bids us to do likewise.
SBC serves the whole community and every neighborhood is in need of a church.
SBC is growing just as is Newport and we pray for this city to enable us in our building/property endeavors.
Thank you.
Bonnie Bogaard

10 April 2023

To: **Newport Community Development (Planning) Department**

From: **Al and Jill OBright, South Beach Wilder residents**

Subject: **Comments regarding:
City of Newport Public Notice
File No 2-CUP-23
Conditional Use Permit Application for South Beach Church (SBC)**

Regarding Public Notice published 31 March 2023 in the News Times, we hereby offer our comments regarding the subject Conditional Use Permit related to: Criteria 3) "The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval."

Although the Wilder subdivision technically lies outside of the 200-foot distance from the SBC property for mailing of the Public Notice as noted in the Newport Municipal Code. Please note that few, if any, Wilder residents were made aware of this Public Notice, nor how far along SBC development had progressed until the evening of 5 April during a Wilder HOA meeting. Please be aware that most Wilder residents are curious about the SBC development and its potential impacts on their neighborhood. Establishing stronger lines of communication with the Wilder community is recommended as SBC property development proceeds.

Traffic – Section 14.45.010

1. Site design calls for 147 parking spaces to accommodate seating for 588 church members, which seems reasonable. However, the application (Section 14.14.030) indicates a gross occupancy not to exceed 1,000 for occasional events. Our concern is that SBC proposes to accommodate excess parking for occasional events on unidentified "private" property and along SE 40th Street. A 2022 weekend outdoor gathering by SBC on the property demonstrated that this may be infeasible for safety reasons. Vehicles were parked on both sides of SE 40th Street with people crossing between vehicles. There currently are no pedestrian crosswalks in that area, and the sight line for vehicles traveling west on SE 40th Street is relatively poor until the curve from SE Harborton Street to SE 40th Street is cleared. Be aware that drivers traveling west and downhill along the street were challenged to avoid parked vehicles and pedestrians during that weekend gathering. Please take this into account in design occupation load and parking considerations for the safety of SBC members and the community at large.
2. The attachment "G" trip assessment letter from engineering consultant Civil West states that "the proposed use development will not generate more PM peak hour trips (4:00-6:00 pm) than available in the TAZ" (traffic analysis zone). This letter assumes that peak hour trips reflect current conditions. However, please note that the Wilder community is currently growing, and will continue to grow in the coming years. Additional training facilities at OCCC are being planned, and OSU Hatfield intends to soon break ground for graduate student housing directly across SE 40th Street from SBC property. Please ensure that the trip assessment reflects predicted future travel conditions and not current travel along SE 40th Street.

3. The sight lines between the proposed SBC entrance/exit drive are not very good to traffic moving west and downhill from SE Harborton Street. Please ensure the design takes this into account as traffic speed tends to accelerate on that westbound route.
4. Please take note that SE 40th Street is presently the only vehicle entrance and exit from Wilder and OCCC. Should there be an emergency evacuation principally due to wildfire threat, congestion most likely will result due to potentially hundreds of vehicles immediately evacuating. Wilder residents have long been concerned about this issue but establishing a second means of egress to Hwy 101 along SE 50th Street seems to be of low priority.

Sound Mitigation

5. We applaud the design team for taking sound mitigation seriously in the design. We agree that surrounding the east, north and west sanctuary elevations with support space should dampen much internal sound to the surrounding neighborhood. However, we note that the sanctuary south elevation will require serious sound mitigation design as it faces the near future OSU student housing directly across the street, and the Wilder subdivision further to the south. Wilder residents are blessed with being in a very quiet neighborhood. Please ensure that low frequency, high volume, interior generated sound is mitigated through that south wall.

Site Lighting - Section 14.14.090(E)

6. For the most part Wilder site lighting is low key; many fixtures and streetlamps comply with International Dark-Sky Association outdoor lighting basics. Many Wilder residents enjoy nighttime star gazing (at least when the sky is clear of clouds and not raining) and wish to maintain low light levels for better viewing conditions. Please consider Dark-Sky recommendations in the design and selection of site lighting fixtures.